

December 6, 2006



**TRANSCRIPT**  
**December 06, 2005**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

George Leventhal, President	Marilyn J. Praisner, Vice President
Phil Andrews	Howard Denis
Nancy Floreen	Michael Knapp
Thomas Perez,	Steven A. Silverman
Michael Subin	



December 6, 2006

1 Council President Perez,

2 We can start.

3  
4 Unidentified,

5 [laughter]

6  
7 Council President Perez,

8 Thank you. Why don't we -- we are all here. Great. Reverend Cato, let's begin with the  
9 invocation.

10  
11 Reverend Phillip Cato,

12 Let us pray. Blessed Lord of your great mercy, you have given to your people the  
13 privilege and the responsibility of governing themselves. You have given us the law to  
14 direct our lives in ways that will allow us to stand before you with integrity and without  
15 shame or fear. As we live our lives in community, seeking justice for all, grant to these  
16 persons we have chosen to lead us in this County such wisdom, prudence, and  
17 compassion as they need to do the work we have called them to do. We ask that you  
18 keep before this body the vision of a good society in which all are regarded as of equal  
19 worth and deserving of an equitable distribution of resources and attention. Grant to  
20 each member of this Council such grace as they need to seek for each citizen the  
21 attention and concern they would seek for themselves. These things we ask in your holy  
22 name, amen.

23  
24 Council President Perez,

25 Thank you very much for those remarks. We -- today is the annual changing of the  
26 guard and I am very excited about the transition and my good friend George Leventhal  
27 will soon be assuming the mantel of the County Council Presidency and I am ecstatic  
28 for him and I am ecstatic for the County because the County will be in remarkably good  
29 hands. And in order to accommodate his family, Councilmember Leventhal arranged  
30 this morning to have the Montgomery County Schools open two hours late so that his  
31 son Daniel could be here and not miss any school.

32  
33 Unidentified,

34 [laughter]

35  
36 Council President Perez,

37 So, lest you wonder about the power of the County Council to affect change, here we  
38 are right here! It really has been a -- a remarkably wonderful privilege to serve with all of  
39 my colleagues over the last year and I want to thank all of you for giving me the honor of  
40 having served as Council President. We certainly have accomplished a lot and we've --  
41 we've laughed a lot. We've, once in a while, yelled and most often we, I think, got a lot  
42 of things done. And I know that I have a lot of passion for the work I do and passion is

December 6, 2006



1 usually good. Passion sometimes gets the best of you and during those times when it  
2 did, I -- I certainly apologize for times when passion may have gotten the best of me. I  
3 think my staff is somewhere around here. I want to thank Dan Parr, who is in the back.  
4 There is no happier person in the room today than Dan Parr.

5  
6 [applause]

7  
8 Council President Perez,  
9 Barbara and Rosa and Chong-hwa will be up soon. I have really relied on them a  
10 remarkable amount over the last year and I'm very, very grateful for them. I hope they  
11 will be up shortly. I have a number of memories from the last year and some of them  
12 involve some of what I would call the process accomplishments and some of them  
13 involve the substantive accomplishments. We have done a lot to try to open up  
14 government to people in many different ways, whether it was opening up the process for  
15 small businesses to compete on a level playing field, whether it is opening up the  
16 process of coming here before the County Council. Sometimes we had hearings, even  
17 though we didn't have a bill before us, because we really, I think, reached out to listen to  
18 people and make sure that everybody has a seat at the table. Because as I've said  
19 many times, one of my concerns about government is that all too frequently the people  
20 who are most directly affected by what we do don't have a seat at the table. So, I think  
21 we've been working hard to build a bigger table and we will continue to do that. I'm  
22 proud of a lot of the transparency initiatives that we've undertaken, including most  
23 recently the addition of our Pictron to our website, which we completed just last week  
24 and announced yesterday. So, anybody who wants to see what we do on the County  
25 Council or anybody who wants to see a vote we've taken, all they have to do is go on  
26 our website and you can learn about that. That will make accessing government that  
27 much easier. We're working on ordering a pizza online on our County Council website.  
28 We haven't quite gotten it there. I also asked whether they could airbrush more hair onto  
29 my head and they're working on that, but for those of us...

30  
31 Councilmember Subin,  
32 You can have the rest of mine?

33  
34 [laughter]

35  
36 Council President Perez,  
37 For those of us that are follically-challenged, Mr. Subin, my razor is in my office, I may  
38 take you up on that.

39  
40 Councilmember Subin,  
41 You need some glue.

December 6, 2006



1 Council President Perez,  
2 Exactly. I'm proud of a lot of those process accomplishments because we do have to  
3 make sure that government is more accessible. We actually had a Town Hall Meeting  
4 last night and the one thing I learned that I didn't know going into that last night was  
5 watching my colleague, Mr. Subin, who answered a question that someone who was  
6 monolingual Spanish answered. We had trouble, frankly, with the translator, and Mike  
7 answered the question in Spanish to that person. I have to say I didn't know that that  
8 capacity existed and I was incredibly impressed with your effort and your  
9 accomplishment. That is yet another indicator of our effort as a County to make sure  
10 that every person feels wanted and every person has a seat at the table and you can  
11 visibly see, Mike, how people in that audience were just remarkably impressed with  
12 what you were doing and what you were accomplishing. So, that's what I learned last  
13 night in our County Council Town Hall Meeting. I'm very proud of many of the  
14 accomplishments we've been able to put together, starting with our budget. We've  
15 wanted to pass a budget that was fiscally and morally responsible and I think we did  
16 that. We did something never accomplished in the history of the County Council in the  
17 charter form of government. We took a budget that was presented by the County  
18 Executive and we reduced it by about \$53 million. Only one time in the Council's history  
19 have we reduced a budget before and that time we reduced it by about \$1 million. This  
20 time we did it by \$53 million and we did so in a manner that kept faith with our schools,  
21 kept faith with the essential services, kept faith with vulnerable populations who rely on  
22 us because of the trail of broken promises that leads from Annapolis and from Capitol  
23 Hill, government -- local government used to be the last line of defense. Now it's all-too-  
24 frequently for vulnerable people the first and the only line of defense. And we were able  
25 to invest in our schools, to fund 99% of the requests of the Montgomery County Public  
26 Schools, to implement the Montgomery Cares program, to make sure that people had  
27 tax relief and not only across the board tax relief, but additionally targeted tax relief for  
28 those who needed it most. So, I was very proud of the budget that we crafted and I was  
29 also proud of the fact that we did it unanimously. I recall a number of articles that said it  
30 couldn't be done. I recall many of the articles and pundits said we were hopelessly  
31 deadlocked and wouldn't be able to accomplish anything. And we proved them wrong  
32 and we proved them wrong because everybody walked in here, all of my colleagues,  
33 with an open mind, with a willingness to listen and with a reservoir of good ideas and  
34 every single person on this Council added immense value to that final product and that's  
35 why we work. And every single member of the community who weighed in added  
36 remarkable value to that process. So, we made real progress there. We've made a lot of  
37 progress on behalf of consumers in Montgomery County by re-organizing the Office of  
38 Consumer Affairs, by making it -- by strengthening our laws against lending  
39 discrimination and I'm looking forward to introducing a bill in the near future to revamp  
40 our consumer protection laws so we can continue down the road of protecting  
41 consumers. We certainly did a lot of work in the area of leveling the playing field for  
42 small businesses with our procurement reform. I'm a little disappointed that the

December 6, 2006



1 regulations haven't come over in a timely fashion, but we're going to get those done and  
2 we'll make sure that those are implemented. That's about making sure the playing field  
3 is level for small businesses because we've spoken to too many small business owners  
4 who aren't able to penetrate, even though they are qualified because the informal  
5 grapevine works to their disadvantage. So, we've taken great steps in correcting that.  
6 We took on a lot of tough decisions and that's something I'm most proud of. We didn't  
7 sweep things under the rug, there is no drawer underneath here that Walter Baker or  
8 others used to have in Annapolis where all of those bills that were controversial got  
9 buried. We did a lot of things on the land use front, including but not limited to the  
10 building height work under Councilmember Denis' leadership. We finally accomplished  
11 what was many, many years in the works, which was ensuring that we will celebrate a  
12 50th anniversary of the Ag Reserve by preserving the reserve and limiting development  
13 in one-third of our County. We have a lot to be proud of there and that is something that  
14 is literally unprecedented in counties across America. I don't want Montgomery County  
15 to become like Fairfax County. I don't want it to become paved over and we made a  
16 very strong statement that we want to protect our agriculture heritage, just last week.  
17 We've worked hard under Councilmember Leventhal's leadership to ensure access to  
18 healthcare for vulnerable populations. I see my friend Jerry Stocks from Washington  
19 Adventist. It's been a real partnership between local government and our safety net  
20 providers and our hospitals to ensure access to healthcare and we have stepped to the  
21 plate at a local government level. The local hospitals have stepped to the plate. The  
22 safety net providers have stepped to the plate. Regrettably this President hasn't stepped  
23 to the plate and this Governor hasn't stepped to the plate, and that is unconscionable.  
24 We will have to continue to work on that issue, because there continues to be far too  
25 many people who don't have access to healthcare, who don't have access to affordable  
26 prescription drugs, who are making those choices between food and medicine, in this  
27 County. People sometimes find it difficult to believe that that happens, but I've met those  
28 people, I've spoken to the people, and we will continue to work hard on their behalf. I  
29 am really -- one thing I learned this year was that -- just like Manny Ramirez, who is one  
30 of the best curve ball hitters in the game, you have to learn to hit a few curve balls and  
31 like many years, we were thrown a few curve balls this year and I was very appreciative  
32 of the work of the community in Clarksburg in bringing the matters to our attention. We  
33 will continue to work on those issues because we need to restore public confidence. I  
34 am very proud of the progress we've made. We have a ton of work to do, but I'm  
35 confident that we're on the right track and we're looking toward solutions. And so I really  
36 look back all in all with great fondness and great pride on the work that we have done.  
37 There's that old land use expert, his name was Frank Sinatra, who once said, "Regrets  
38 I've had a few, but then again, too few to mention." I won't sing it because you might all  
39 walk out. But I really had a great time, it's been a really fun run and for all who helped to  
40 pitch in, I'm very, very grateful. I'm fond of saying I never had an original thought in my  
41 life and I was able to continue that because all the good things we accomplished were  
42 the function of people in this room, people on our staff, people in the community, people

December 6, 2006



1 next to me who accomplished so much and had so many good ideas and so to those  
2 who pitched in to help, I think anything that worked was yours and anything that didn't, I  
3 accept full responsibility for. I'm very much looking forward to the upcoming year under  
4 the able leadership of my friend and colleague, George Leventhal. He is a true  
5 progressive who cares so deeply about this County, cares so deeply about vulnerable  
6 people, cares so deeply about the issues that we all care about in terms of keeping this  
7 County moving in the right direction. So, I cannot think of a more able person here and  
8 I'm very, very excited to be passing the reigns to you, George. And I want to thank, now  
9 that my staff has come from the room, Chong-hwa and Barbara and Rosa and Dan and  
10 all the people on the fifth floor. I was asked the other day by a friend, how is it that the  
11 Council is able to accomplish so much? I said, well, "I can give you about 50 or so  
12 reasons why the Council is able to accomplish so much. Because we have such a  
13 committed and dedicated staff of professionals." As I said to them this morning, one of  
14 my pet peeves is when I hear politicians rail on "bureaucrats." It's an easy thing to go  
15 after government. It's kind of like shooting fish in a barrel. It really angers me because  
16 you look at the loyal career professionals here in the County Council staff, you look at  
17 the loyal career professionals in the Executive Branch at Montgomery County Public  
18 Schools, Park and Planning and elsewhere, who could make far more money doing  
19 other things, but they have chosen public service. I have great respect for them and I  
20 know that what we have accomplished this year could not have been done without  
21 them. So, I have a few parting gifts for my colleagues and I wanted to start out with Mr.  
22 Knapp and Mr. Subin because in the area -- in the realm of the search for common  
23 ground, people know that we actually had a debate recently on the issue of drug  
24 importation. And in the aftermath of the vote, Mr. Subin and Mr. Knapp and I got  
25 together and we agreed to introduce a resolution today regarding the importation of  
26 Canadian drugs. And so we have...

27  
28 [laughter]

29  
30 Council President Perez,  
31 And so, Mr. Subin, we have this ...

32  
33 [laughter]

34  
35 Councilmember Subin,  
36 Party time!

37  
38 Council President Perez,  
39 And Mr. Knapp... We have this. So, we will have the Canadian drug resolution  
40 introduced this afternoon and I -- I will move to waive the rules and pass it unanimously.

41  
42 Councilmember Subin,



December 6, 2006

1 \$5 a bottle?

2

3 Council President Perez,  
4 That's right, that's right!

5

6 [laughter]

7

8 Council President Perez,  
9 This is how we'll... Yeah, yeah, we -- quite a markup, by the way, we had to talk to  
10 George in Liquor Control. I spent many summer nights at the RFK stadium with my  
11 friend, Mr. Denis. My 9-year-old is now addicted to the Washington Nationals, courtesy  
12 of Mr. Denis. And so I have a clock that is a baseball from the Washington Nationals...

13

14 [laughter]

15

16 Council President Perez,  
17 ...for Mr. Denis.

18

19 Councilmember Denis,  
20 Thank you. Thank you very much.

21

22 Council President Perez,  
23 Thank you. Thank you. We didn't have the pleasure this fall of going to the World  
24 Series, but I do have two colleagues, Ms. Floreen and Mr. Silverman, who we have to  
25 continue, hope springs eternal. We will always... The dream shall never die! That's all I  
26 can say. Thank you.

27

28 [laughter]

29

30 Council President Perez,  
31 And one of the most...

32

33 Unidentified,  
34 What about last year?

35

36 [laughter]

37

38 Council President Perez,  
39 Yeah. And in the realm of the most difficult purchase I had to make is someone I -- I  
40 hate the New York Mets so much, for the following reasons -- I hate the New York  
41 Yankees so much that I can't hate them enough, and so I hate the New York Mets. And  
42 so it was with great difficulty that I had to buy a New York Yankees jersey for my good

December 6, 2006



1 friend, Marilyn Praisner. And so for your family, and finally, for my colleagues, Phil  
2 Andrews and George Leventhal...

3  
4 Councilmember Andrews,  
5 Can't we get the Canadian drugs?

6  
7 [laughter]

8  
9 Council President Perez,  
10 Well, I was reflecting on the year ahead! And Mr. Andrews is the Chair of the Public  
11 Safety Committee and I wanted in honor of his chairmanship -- and also the other thing I  
12 noted is these are the two people most rooted in Montgomery County, in so far as  
13 having lived here. What I wanted to find for them was something that had Montgomery  
14 County on it. We are all rooted here now and this is what we call home, but they have  
15 called it home for the longest percentage of their lives. And so I wanted, Mr. Andrews, to  
16 give you a Montgomery County Fire and Rescue shirt. And I wanted for Mr. Leventhal,  
17 because I was thinking about the year ahead and there are many brushfires. You put  
18 out fires in the Public Safety Committee in the community and Mr. Leventhal will be  
19 putting out fires on the County Council. And so I wanted to make sure that he had the  
20 Fire and Rescue leadership there. So, thank you both for your leadership and thank you  
21 to everybody for the privilege of allowing me to serve. It really -- we've had fun, I recall  
22 the -- the budget most frequently because that was a tough time for me.

23  
24 Councilmember Silverman,  
25 That was a million laughs!

26  
27 Councilmember Leventhal,  
28 \$3.1 billion.

29  
30 Council President Perez,  
31 Yes! People were so accommodating during a difficult period. So, thanks.

32  
33 [applause]

34  
35 Council President Perez,  
36 Mr. Subin?

37  
38 Councilmember Subin,  
39 Thank you, Mr. President. Before I drink my beer and can no longer talk, I just wanted to  
40 say two things. One: That I planned on saying the other, that follows up some of your  
41 comments, they both reflect on leadership. Probably the biggest single issue that the  
42 President of the Council deals with is the budget and getting the Council through that.



December 6, 2006



1 That is really the one single issue that we can point to where the President ends up  
2 standing out above everybody else and this was probably the most potentially  
3 contentious budget that I've seen. And it certainly started out down that road. There  
4 were three distinct factions, none anywhere close to each other, and at the end of the  
5 day, you were able to bring this Council together despite what the pundits were trying to  
6 say and trying to have happen so there'd be more headlines, you were able to bring the  
7 Council together and get through a historical budget. More importantly, you said  
8 something in your speech which I think really reflects upon your character, not just your  
9 leadership. There is far too much going on in Rockville and down the road, where folks  
10 will take credit for things are good and when things don't quite happen the way they  
11 would have wanted, start pointing fingers all over the place. One of the things that you  
12 said is that you take responsibility for the things that didn't happen and didn't work out  
13 right. I think that's just an incredible indication of your character and your leadership and  
14 I'm proud to have served under you.

15  
16 Council President Perez,  
17 Mr. Denis?

18  
19 Councilmember Denis,  
20 Thank you, Mr. President. This is out of respect for you, Tom. [speaking Spanish]

21  
22 [laughter]

23  
24 Council President Perez,  
25 He just called me a jelly donut!

26  
27 [laughter]

28  
29 Council President Perez,  
30 I'm translating!

31  
32 Councilmember Denis,  
33 [speaking Spanish]

34  
35 Unidentified,  
36 [laughter]  
37 [applause]

38  
39 Councilmember Denis,  
40 Mr. President, I just want to thank Rosa Garcia of your staff for -- for translating what I  
41 had written and I would like to read it in -- in English, if I may. Congratulations to Tom  
42 Perez for his excellent service to the people of Montgomery County, as Council

December 6, 2006



1 President for the past year. Under his great leadership, we have enjoyed a year of  
2 progress and civility. Consensus was reached on difficult issues. Different views were  
3 fairly heard and reservations were considered with goodwill. President Perez's  
4 optimism, expertise, served us well. Thank you, Tom Perez, for a very good year.

5  
6 Council President Perez,  
7 Thank you. Ms. Floreen?

8  
9 Councilmember Floreen,  
10 I wanted to join my colleagues and go the English route in saying, Tom, I think you've  
11 done a great job.

12  
13 Council President Perez,  
14 Thank you.

15  
16 Councilmember Floreen,  
17 You've had -- well, you've had a really important quality, which I think is one of calm and  
18 patient acceptance of nine different points of view. Nine different approaches, that was  
19 especially true during the budget where we each staked out a slightly different position  
20 and I think it was a remarkable achievement that we could all come together, in a  
21 unanimous agreement on a really complicated budget situation. Everyday around here  
22 is an adventure, but it's been a delightful adventure with you. And I look forward to  
23 continuing to work with you.

24  
25 Council President Perez,  
26 Thank you. Mr. Andrews?

27  
28 Councilmember Andrews,  
29 Thank you. You've done a sensational job as Council President, Tom. And I think that  
30 when people think about the future, for Tom Perez, I think they should think of Eliot  
31 Spitzer and take it up one level. You've struck a blow for the follically challenged and  
32 Mr. Leventhal has done it also!

33  
34 [laughter]

35  
36 Councilmember Andrews,  
37 and we both love to hike...

38  
39 Council President Perez,  
40 Stop bragging Mr. Andrews!

41  
42 [laughter]



December 6, 2006

Councilmember Andrews,

We both love to hike. Enjoy it while you've got it. I will, all right! It's disappearing! Well, the follically challenged caucus on the Council continues to grow! We both love to hike and I usually hike west, but I know you will be hiking that trail of broken promises and heading there and that well trod trail of broken promises and hopefully you will be able to fix the trail so it's in better shape than it's in now. So, it's been a pleasure serving with you here and serving under your leadership as Council President and I wish you the best in the coming year. I know that only your staff is happier than you today, and having a few fewer administrative things to attend to. But you've done great work and thank you for your service.

Council President Perez,  
Thank you, Mr. Silverman?

Councilmember Silverman,

Thank you, Mr. President, at least for a few more minutes. I want to commend you for your tremendous leadership this year. Having sat in the Chair, I know what kind of a challenge it is to deal with the other eight, whoever the other eight are at any point in time. We don't have a structure here. We have a rotating presidency. We have Committee Chairs and Committees that can be overridden by the full Council, it's not just that there haven't a drawer for a leader of the Council to put something in and bury, but rather, it is the most open form of government that I think anybody can point to in that we vote on things that some of us may not be enthusiastic about voting on, but that's the way we do things here in Montgomery County, out in the open. And I congratulate you for continuing that -- that tradition. You also have a tremendous sense of humor, which is absolutely job one in terms of being President of the Council. It's a very important icebreaker and you've used it on numerous occasions. I admire your continued presence in the community. You came to the Council, to many of us, as someone rooted in the community but not rooted in -- in countywide politics and you have remained rooted in the community, you and your staff, and I think that's a testament to the fact that while you have waded into a variety of other issues, you continue to remain focused on your roots. And I think the other point I would make is that you have really taken Hubert Humphrey's quote to heart, in terms of the moral test of government being focused on what it does to help those at the beginning of life, our kids, at the end of life, our seniors, and those in the shadow of life, our disabled. That's something you've quoted very often. I don't use it anymore because you use it all the time, but it is a reflection on your commitment to those less fortunate and those who don't have voices in this County and that's a legacy from your presidency and I know that will continue to be a legacy as long as you're in public office and I congratulate you on a great year.



December 6, 2006

1 Council President Perez,  
2 Thank you. Ms. Praisner?

3  
4 Councilmember Praisner,

5 Well, never going to be a member of the follically challenged coalition, I have a little bit  
6 of limitations as far as the experiences and interactions, but I have been, I think, had the  
7 opportunity over the three years, and especially in this last year, to work with someone  
8 whom I have learned to respect and enjoy the opportunity to interact with every day.

9 And someone I'm honored to call not only my colleague, but also my friend. Tom,  
10 everyone who has spoken already has mentioned the same qualities already. Your  
11 sense of humor. Which is sometimes hard to follow, but... Your sense of humor. Your  
12 sharp intellect. Your passion and commitment to the issues that are important to you,  
13 but also your passion and openness to the issues that are important to your colleagues.  
14 That respect for each of us has been a cornerstone of your service on the Council and  
15 especially your service as Council President. Your outreach to all of us. Your outreach  
16 to the broader community and your capacity to help us to see not just our perspective,  
17 but everyone else's perspective. The broad community perspective. And to reach out as  
18 you do so well, beyond Montgomery County borders. There are some of us -- or there is  
19 a tendency in this County to think of Montgomery County as the center of the universe  
20 and we all know that's not true. But Tom knows it very well based on his past  
21 experiences but also his capacity and his interest and willingness to reach out beyond  
22 the County's borders, to folks within this state and to folks across this country. And to  
23 share and bring that perspective back here to the County. So, from the first day that we  
24 sat on a panel as candidates next to each other, because the alphabet made us seat  
25 mates, but our service on the Council has made us friends. Thank you, Tom.

26  
27 Council President Perez,  
28 Thank you. Mr. Knapp?

29  
30 Councilmember Knapp,

31 Thank you, Mr. President. About three years ago, after Tom and I both got elected, Tom  
32 approached me and said, you know, we're kind of representing about the opposite end  
33 of the County. You've got -- I'm down here in the corner, you're up there in the corner  
34 and suggested that we take time to -- [laughter] Reach out and -- and really learn each  
35 other's districts and I think that is a -- is a testament and he set up a time for me to  
36 come down and tour through District 5 and had an opportunity to take Tom around  
37 District 2. I think that really speaks to Tom recognizing not just that we are a broad  
38 community demographically, but geographically and really wanting to know and  
39 understand all of the pieces and all of the facets that make up this great community.  
40 And so I think that just kind of points to, as you already heard, the type of leadership  
41 that he's presented. I want to thank him for his efforts and for his good humor. He's set

December 6, 2006



1 the bar for future Council Presidents, not just legislatively, but clearly with the gifts! The  
2 challenge is on, George!

3  
4 Council President Perez,  
5 Thank you. Let's turn to the future. Nominations for Council President.

6  
7 Councilmember Knapp,  
8 It is my pleasure to move the nomination of Mr. Leventhal as our next Council  
9 President. Four years ago this week, I think, George and I met for the first time, where  
10 we sat down and he had indicated to me that he was likely to be a candidate to run for  
11 office and I indicated a similar desire. And at that point in time, we talked about not just  
12 the mechanics of running campaigns, but of those things that were important to us. And  
13 at that time, I was struck by George's commitment to those among us who -- who can't  
14 necessarily all do for themselves. George -- and George has taken that discussion four  
15 years ago and clearly lived it this three years on the Council. He's shown unwavering  
16 leadership on children's issues, focusing on childhood fitness and nutrition and  
17 childhood obesity. He's really taken the lead on healthcare for the uninsured and the  
18 underserved in what he's done with our community health clinics and his efforts on  
19 Montgomery Cares. Looking at the community -- implementing the community  
20 pharmacy. But George has looked more broadly than just those types of issues. He's  
21 taken leadership in environmental issues, looking at making sure we address clean  
22 energy and putting us on the map as the leaders in renewed energy in this country. But  
23 he's also taken very difficult positions on issues that people wondered why. When I  
24 introduced the fire legislation two and a half years ago, George stepped up and put his  
25 name on the legislation as a co-sponsor and took a great deal of heat for that, so to  
26 speak. And in addition, I know he's worked very hard at trying to put together all of the  
27 pieces on votes like we took last week as it relates to preservation of the Agricultural  
28 Reserve, recognizing the unique characteristics of the religious institutions in our  
29 community and our Private Institutional Facilities and how do you achieve a balance  
30 between those entities while still preserving our future in agriculture and looking for  
31 ways to address our ability for religious institutions to continue to grow and expand and  
32 serve our County? And I think those are the types of things that show George's  
33 commitment to Montgomery County as has already been indicated by Mr. Perez's gifts,  
34 he and Mr. Andrews being our longest serving members. George has been here for  
35 much of his life. And he brings that vision and perspective to bear each and every day  
36 and feels very personally and deeply a responsibility to taking care of all of our  
37 community and making sure that we have programs that meet all of our community's  
38 needs, all of our residents' needs. I think it is that commitment, that dedication, that  
39 responsibility to Montgomery County that he will bring to a leadership role to President  
40 of the Montgomery County Council. It's my pleasure to forward that nomination today.

41  
42 Council President Perez,

December 6, 2006



1 Mr. Andrews?

2  
3 Councilmember Andrews,

4 Thank you, it is my pleasure to second the nomination of George Leventhal for  
5 President of the County Council. George has a great deal of ability to outreach to  
6 people and has many, many connections and he used them all to arrange the weather  
7 last night.

8  
9 [laughter]

10  
11 Councilmember Andrews,

12 He's a fighter for regressive values. George was long a strong supporter of the living  
13 wage law, which the Council adopted in 2002 and which is in place now. George was a  
14 strong supporter of the smoke-free restaurant law, played a key role there. He's been a  
15 tireless advocate for working to expand healthcare to people who don't have it, which,  
16 unfortunately, is many too many in our County, as in the state and the nation. And  
17 maybe there's no issue, though, that I think exemplified George's leadership as much in  
18 the past couple of years as his leadership when we dealt with Strathmore. And this may  
19 not seem like an obvious issue to talk about, but George got it. George got that the  
20 issue with regard to Strathmore and the request for more money to complete  
21 Strathmore after the Council had drawn a line in the sand and said, "This is it, that's it,  
22 no more," was that he was about the Council's credibility and George recognized that.  
23 He stood up to those. He disappointed the futures investors in moth balls and he found  
24 a way to come up with a funding plan that got Strathmore completed, that kept the  
25 Council's word that it would stick to the cost that it approved for the total subsidy of  
26 Strathmore. And Strathmore is completed, it's a beautiful place, it's doing well and the  
27 Council's credibility is intact. I think that was outstanding leadership, George. George -- I  
28 understand there is a lump of coal at the front desk. I think it's from Rod.

29  
30 [laughter]

31  
32 Councilmember Andrews,

33 This being the season. George has been known to -- you know, some people make  
34 people green with envy. George makes people green with energy. And so, finally, we all  
35 have received George's campaign materials in the mail. We've all...

36  
37 [laughter]

38  
39 Councilmember Andrews,

40 ...we've all heard him talk about this because he talks the talk and George has long said  
41 that he chose to live in Montgomery County. He chose, about two decades ago, chose  
42 to live in Montgomery County after having grown up here partially as a child. And now



December 6, 2006

1 the residents of Montgomery County, through their elected officials, have chosen you,  
2 George, to serve as President of the County Council and it's a very good day for the  
3 County and I congratulate you.

4  
5 Councilmember Leventhal,  
6 Thank you, Phil.

7  
8 Council President Perez,  
9 Okay, moved and seconded? All of those in favor? It's unanimous. With great pleasure.

10  
11 [applause]

12  
13 Council President Perez,  
14 Okay, now we'll do the nomination...

15  
16 Councilmember Leventhal,  
17 Okay, 'cause we switch seats.

18  
19 Council President Perez,  
20 Not now, not yet, not until Marilyn. Now we will -- now we will have nominations...

21  
22 Councilmember Silverman,  
23 You're not in a hurry there are you, George?

24  
25 [laughter]

26  
27 Council President Perez,  
28 Now we have nominations for Council Vice President, Mr. Subin.

29  
30 Councilmember Subin,  
31 Thank you, Mr. President. It is -- it is my distinct honor to nominate my long-time friend  
32 and colleague, Marilyn Praisner, to be our next Vice President. As far as I'm concerned,  
33 Marilyn has one of the highest levels of honor and personal integrity that I know of. Her  
34 intellect is unquestioned. And if anybody is independent, Marilyn Praisner is the one  
35 who's independent. Nobody that I know of spends more time in public service than  
36 Marilyn. If she's not here, she's in Washington. If she's not in Washington, she's in  
37 Annapolis. If she's not in Annapolis, who knows where she is.

38  
39 Council President Perez,  
40 San Diego!

41  
42 Councilmember Subin,



December 6, 2006

1 San Diego!

2  
3 [laughter]

4  
5 Councilmember Subin,  
6 Fargo, North Dakota.

7  
8 Council President Perez,  
9 Philadelphia.

10  
11 Councilmember Subin,  
12 Salt Lake City. But one does not waste the time of trying to call Marilyn at home. You  
13 call her on her cell phone and if you want to get a reply from her, you send her an e-mail  
14 and it will be sent back to you anywhere between 2:00 a.m. and 4:00 a.m. So, keep  
15 your phone off. More importantly, though, I think the next two years are going to be  
16 years of great challenge for not only the County, but clearly the County Council. And it is  
17 going to take leadership that is rooted in experience in the past and who knows how to  
18 deal with issues. As a member of both the Board of Education and the County Council, I  
19 know of nobody who has weathered over time more of the extremes or the ups and  
20 downs that we face than Marilyn has. And it's going to take, I believe, given those  
21 changes, somebody who is experienced at weathering those changes and being able to  
22 stand the ground of the Council as an institution. We have faced great challenges in that  
23 arena and we're going to need somebody in the leadership position of this Council who  
24 is rooted, who has the experience, and who is scarred from standing institutional  
25 ground. Whether it's over at the Board of Education or at -- at the Council. And Marilyn  
26 bears more scars than anybody I know from protecting her institutions. So, it is with  
27 great pleasure that I nominate Marilyn Praisner as the next Vice President.

28  
29 Council President Perez,  
30 Mr. Andrews?

31  
32 Councilmember Andrews,  
33 Thank you, Mr. President. I'm having "seconding" thoughts this morning. I'm going to  
34 second the nomination of Marilyn Praisner. I've had the pleasure of serving with Ms.  
35 Praisner on the Management and Fiscal Policy Committee now for seven long years.

36  
37 [laughter]

38  
39 Councilmember Andrews,  
40 And we thought -- some of us on MFP hoped that when PHED started meeting every  
41 other day that it might just slow Marilyn down a little bit, but she's sleeping less and  
42 working even harder. So, nothing has changed in terms of the schedule for the





December 6, 2006

1 Management and Fiscal Policy Committee, which many of you know, at least until this  
2 past year or so met twice as much as any other Committee. I think PHED is now  
3 keeping up. But Marilyn has a reputation well-earned for diligence, for tenaciousness,  
4 for looking out for the people who aren't necessarily at the table, for doing her  
5 homework, and being a fighter for consumers. Marilyn took the lead over the past five,  
6 six years and probably before that, before I was here, and led the fight for consumer  
7 protections for cable customers. This is something that requires a lot of effort given the -  
8 - given the tenacity of some of our folks on the other side and Marilyn has been up to  
9 the challenge and has constantly looked out for the interest of consumers. Marilyn  
10 knows the County inside out. She has a tremendous amount of elective experience,  
11 having served on the school board for eight years, and now on the Council for 15 years.  
12 And she will be a very steady hand to work with President Leventhal in the coming year,  
13 as we finish out this Council's term. And then will be President at the start of next term,  
14 with a new County Executive, which will be a very important transition year, and I think  
15 she will be just the right person for that year. So, it is a pleasure to second your  
16 nomination, Marilyn. Marilyn is also, lest one think that she simply works at the County  
17 Council, which one could think -- Marilyn is a dedicated mother and grandmother and  
18 spends a great -- gets great joy and pleasure spending time with her family whenever  
19 she's not attending meetings around the state or representing the County through the  
20 Maryland Association of Counties. So, Marilyn, thank you for your dedication to the  
21 public good. I look forward to serving with you again.

22  
23 Councilmember Praisner,  
24 Thank you.

25  
26 Council President Perez,  
27 Don just e-mailed me to add the word "wife." I just got that e-mail from him!

28  
29 [laughter]

30  
31 Council President Perez,  
32 Not to be conspicuous by its absence. Didn't want those people in the back writing a  
33 story...

34  
35 Councilmember Andrews,  
36 I accept that as a friendly amendment.

37  
38 Council President Perez,  
39 Ms. Floreen?

40  
41 Councilmember Floreen,



December 6, 2006

1 Well, I wanted to also -- I guess I will third the nomination of Marilyn to be Vice  
2 President. You know, you guys think you're tough gentlemen, but Marilyn is as tough as  
3 nails about important things, and I think that is an incredible asset and one that we're  
4 surely going to need in the next few years. I -- I have known Marilyn for a number of  
5 years. I had not known and I was really won over, if I hadn't been before, by the fact that  
6 Marilyn's favorite movie is "Dirty Dancing."

7  
8 [laughter]  
9

10 Councilmember Floreen,  
11 Marilyn is -- is an interesting person of great depth. She's probably the only one here  
12 who's gone through every single word in the packet before this Council for today, and  
13 has already corrected whatever errors there might be in the thousands of words that we  
14 deal with on a pretty daily basis. But Marilyn's commitment to community, and I think  
15 we'd all say that we are equally committed to community, is over the top and has offered  
16 our residents, not just in the eastern portion of the County, but across the County, a real  
17 insight into public service and commitment to the things that make Montgomery County  
18 so important. We spend many hours and are continuing to spend even more hours in  
19 the PHED Committee on dealing with a lot of the details of development and of  
20 community. And I am here to tell you, if you don't follow, that -- that Marilyn is the  
21 leader. She is the soul of so much of our planning process. I think we're very lucky to  
22 have Marilyn as a member of the sisterhood, up in this leadership position. So, I look  
23 forward to working with you, Marilyn.  
24

25 Council President Perez,  
26 Okay. All of those in favor of Marilyn Praisner, Council Vice President. Don's voted, too!  
27

28 [applause]  
29

30 Councilmember Perez,  
31 Let me be the first to say that Mr. President and Madame Vice President, let's change  
32 the chairs.  
33

34 [laughter]  
35

36 Councilmember Subin,  
37 You've earned it.  
38

39 [laughter]  
40

41 Councilmember Silverman,  
42 [INAUDIBLE] gets a what?



December 6, 2006

1  
2 Council President Leventhal,  
3 A medal.

4  
5 Councilmember Silverman,  
6 Oh, a medal, right! A classic!

7  
8 Multiple Speakers,  
9 [INAUDIBLE]

10  
11 Councilmember Praisner,  
12 Gets a medal.

13  
14 Councilmember Floreen,  
15 Oh, yes!

16  
17 Multiple Speakers,  
18 [laughter]  
19 [INAUDIBLE]

20  
21 Council President Leventhal,  
22 Okay.

23  
24 Councilmember Perez,  
25 I want this chair! Wait a minute.

26  
27 Councilmember Praisner,  
28 My chair.

29  
30 Councilmember Perez,  
31 I want my chair back.

32  
33 Councilmember Praisner,  
34 My chair.

35  
36 Council President Leventhal,  
37 Well, thank you so much to all of my colleagues, thank you to Mike Knapp and Phil  
38 Andrews for nominating and seconding me. It is a great honor and great responsibility to  
39 serve as President of the Montgomery County Council. I appreciate your faith in my  
40 ability to do the job. I want to thank my outstanding staff, my Chief of Staff Valerie Ervin,  
41 Policy Analyst Patty Vitale and Office Manager Walt Harris.  
42



December 6, 2006

1 Unidentified,

2 [applause]

3  
4 Council President Leventhal,

5 Thank you so much to all three of you, I know you put up from a lot from me, but I  
6 appreciate the work we do everyday to serve the people of Montgomery County. I  
7 wanted to acknowledge that my wonderful wife, Soraia is here, with our son Daniel.

8  
9 Unidentified,

10 [applause]

11  
12 Council President Leventhal,

13 And I want to acknowledge the presence of my very good friend, Maryland state  
14 Delegate Herman Taylor, who is here with us, and he will be critiquing my speech later.

15  
16 Unidentified,

17 [laughter]

18  
19 Council President Leventhal,

20 This past year has been extraordinarily productive and moved this County forward.  
21 Much of the success is due to the leadership of our good friend Tom Perez. We are nine  
22 independent cats on this Council and no one takes orders from anyone else. Yet  
23 somehow Tom managed to herd all of us where we needed to go, through consultation  
24 with each of us and by earning our trust. As one of your constituents in District 5, Tom, I  
25 feel very well represented and it's an honor to succeed you in the office of President and  
26 we have this gift for you on behalf of a grateful County.

27  
28 Councilmember Perez,

29 All right!

30  
31 Unidentified,

32 I know what it is! [laughter]

33  
34 Councilmember Praisner,

35 Don't shake it.

36  
37 Councilmember Perez,

38 Tick-tick-tick.

39  
40 Unidentified,

41 [laughter]



December 6, 2006

1 Councilmember Praisner,

2 It's not from Canada.

3  
4 Councilmember Perez,

5 Call Tom Carr. Oh, wow! Beautiful, all right! Thank you.

6  
7 Unidentified,

8 [applause]

9  
10 Council President Leventhal,

11 I want to congratulate my good friend, Marilyn Praisner, on her election as Council Vice  
12 President. When all the other Councilmembers' cars -- and my motorcycle -- are long  
13 gone after a hard day work at the Council, Marilyn's car is still here. Nobody sweats the  
14 details like Marilyn and nobody cares more about making sure Montgomery County  
15 taxpayers get the good government and good management they expect and deserve. I  
16 look forward to working even more closely with Marilyn in the coming year. When my  
17 parents and I first moved to Montgomery County in 1964 it was a very different place,  
18 the County was overwhelmingly white with a small African-American population and  
19 hardly any Asian-Americans or Latinos. Most people commuted downtown to the  
20 nation's capital or to federal facilities here, such as the National Institutes of Health,  
21 where my father and mother worked. Silver Spring didn't need revitalizing yet. The most  
22 exotic meal you could get in Bethesda was a plate of french fries at the hot shops. The  
23 Beltway had just opened and Germantown was a small, rural community. There was  
24 one thing, though, that County residents then have in common with County residents  
25 now: like us, they chose this place to be their home. They felt blessed to live in  
26 Montgomery County and we are blessed. Life is good here. We have a diversified  
27 economy that helps us ride out economic highs and lows. Our unemployment rate is  
28 2%. We have beautiful parks, trails, lakes, creeks, pools, and other recreation facilities.  
29 We have a world-class school system that ranks among the best in the nation.  
30 Montgomery College is among the top community colleges in the United States. Our  
31 library system is the ninth best in the nation among communities with half a million  
32 people or more. The values of our homes, the largest investment nearly all of us will  
33 ever make and the repository of most of our wealth, are sky high. We enjoy outstanding  
34 cultural and entertainment opportunities at facilities like Strathmore, Black Rock,  
35 Imagination Stage, AFI Silver, and Olney Theater among others. But we're not just a  
36 successful County, we are a generous County. Having achieved success, we are not  
37 going to hang out the "No Vacancy" sign and pull up the ladder that would allow  
38 newcomers to join us in enjoying the good life here. That's not us. And if I have anything  
39 to say about it, it never will be. We are reaching out to help our small and minority  
40 businesses. We must complete the task we started this year, implement our Local Small  
41 Business Reserve Program and extend and improve our Minority Female and Disabled  
42 Program for County contracts. We are expanding access to healthcare for the estimated



December 6, 2006

1 80,000 uninsured residents of this County. We are making sure every baby born in the  
2 County gets a healthy start in life. From prenatal programs to care for kids, to  
3 Montgomery Cares to our community pharmacy, to respite care for seniors, we are  
4 working to guarantee every resident at every stage of life access to quality healthcare.  
5 Amidst the red-hot real estate market, we are working to keep housing units affordable  
6 for longer periods of time, update our model MPDU program to get more new units and  
7 creatively seek public/private partnerships to produce more housing for working  
8 families. We are taking steps to clean up our air and our water. This County passed the  
9 strongest special protection area in the County's history in the Upper Rock Creek to  
10 protect our watersheds. We are the largest government purchaser of clean, renewable  
11 energy east of the Mississippi. We are expanding the use of alternative energy in  
12 County vehicles and we are going to push ahead on green buildings for the future.  
13 When I think of the issues facing us as a County, I see the faces of the real people we  
14 represent. I think of Martin Myorga, who started out with a \$1,000 stake from his credit  
15 card, put everything he had at risk to start a coffee importing and roasting business, and  
16 has made the Myorga Coffee Factory the hippest place to be and be seen in Silver  
17 Spring. Martin's vision has improved the quality of all of our lives. We need to assist our  
18 young entrepreneurs to realize their visions and achieve their dreams. I think of [Denise]  
19 Jones, who is here in the audience, a single mother who works so hard to make sure  
20 her brilliant 5th grade daughter, [Emme], gets the very best that is available to her in the  
21 Montgomery County Public Schools. Day and night, [Denise] helps [Emme] with  
22 homework, coaches her for the Geography Bowl, advocates on her behalf with her  
23 teachers and her principal, and takes her to cello practice and the girl scouts. [Denise]  
24 knows it requires aggressive parenting to make sure a child receives everything to  
25 which she is entitled. And to make sure other kids get the same chance in life. Denise  
26 serves as President of the NAACP Parents' Council at Emme's elementary school. We  
27 need to be sure the deck is not stacked against any of our children. I think of Dave  
28 Weitzer, a dairy and grain farmer just outside of Poolesville. He wakes up around 5:30  
29 in the morning every day, does some paperwork and goes down to the barn to make  
30 sure the cows ate well, had a good night, and are making plenty of milk. During planting  
31 time, Dave works hard to get the corn and bean crop planted. During the growing  
32 season, Dave checks the field to be sure it's growing well with no unexpected weed or  
33 insect problems and that it's been adequately fertilized. Like every farmer in  
34 Montgomery County, Dave's operation is highly leveraged. He can't farm unless he can  
35 borrow for equipment, animals, and other necessary inputs. We need to make sure that  
36 our Agricultural Reserve is not only set aside as open space but also as a productive  
37 and viable place where farmers can earn a living and feed our community. Do we have  
38 problems and challenges? Of course, we do. I'm reminded of the old Irish wedding  
39 toast, directed at newlyweds. "May you have lots of problems...all small ones." Our  
40 problems arise from our successes. Because so many people want to live and work  
41 here, we continue to experience unacceptable traffic congestion. This Council has  
42 increased spending on transportation infrastructure by one-third since we took office.

December 6, 2006



1 We have made progress in carrying out the ten-year, \$7 billion transportation plan,  
2 approved by the Council in 2002. We have broken ground on the Montrose Parkway,  
3 built or begun construction on nearly two dozen new intersections and interchanges,  
4 and significantly increased Ride On bus service. And I am pleased that the day is soon  
5 upon us when we will turn earth on construction of the Intercounty Connector. Still, we  
6 can't do it all alone. We need a governor who's engaged on something other than the  
7 ICC. We need state action to get the Purple Line and the Corridor Cities Transit Way  
8 moving. And on those the Governor is missing in action. That's got to change if we are  
9 going to ratchet up our anti-congestion efforts to the next level. Because we are such a  
10 desirable place to live, the pressure for growth and development is strong. We must  
11 make sure that we are managing growth rather than letting it manage us. But let's keep  
12 things in perspective. Despite everything you have heard in the last year, we do have a  
13 tradition of good planning and good land use management in Montgomery County.  
14 Between the Agricultural Reserve and County, State, and Federal parkland, nearly half  
15 the County is off-limits to development. Our growth rate is one of the slowest among  
16 jurisdictions in this fast-growing region. Our population grew by 37% between 1970 and  
17 2000, compared to 64% in Anne Arundel County. 105% in Fairfax County. 119% in  
18 Carroll County. 130% in Frederick County. 194% in Prince William County. 302% in  
19 Howard County. And 356% in Loudoun County. Housing starts for this year will likely  
20 end up around 2,000, the least since 1997. School enrollment is now estimated to be  
21 flat for the next several years and we are reducing the number of portable classrooms in  
22 use. The problems in Clarksburg, at the Planning Board, and in other agencies, will  
23 continue to preoccupy this Council for the next two to three months. I want to make sure  
24 we adopt a package of legislative reforms on Planning Board governance before we  
25 receive the County Executive's budget in March. We all own what happened in  
26 Clarksburg. And by all, I'm talking about the private sector, too. And we all have a stake  
27 in fixing it. County residents deserve and expect good government and good  
28 management. They expect stability and predictability. They expect there to be a clear  
29 set of rules and regulations and someone to make sure they get followed to the letter.  
30 What is the basic lesson of Clarksburg. Let me tell you. We are here to serve the people  
31 of Montgomery County. Those of us in government cannot forget that. We are here to  
32 meet the needs of the people who sent us here and who pay our salaries. If County  
33 residents want to see records, the records, damn well ought to be available. If County  
34 residents call and ask questions, they're entitled to have their phone calls returned and  
35 their questions answered. And the lessons of Clarksburg are not limited to Park and  
36 Planning. I'm talking about all government agencies. We need to reinstill a culture of  
37 customer service in County government. We are here to serve the people of  
38 Montgomery County, they pay the bills. They expect and deserve no less. And if that  
39 central notion of customer service is missing, then we can check off every little box on  
40 our action agenda on Clarksburg and still come up short. Another problem of success  
41 involves taxes, rising property assessments have meant rising property taxes for all of  
42 us. Last spring, with Tom Perez's leadership, we delivered significant, across the board,

December 6, 2006



1 as well as targeted tax relief to County residents while still funding County services. The  
2 across the board relief amounted to an average of \$300 per household and I am  
3 optimistic that we will deliver additional tax relief in the coming year, but we must always  
4 keep in mind that there is no free lunch. If you want good schools, libraries, and roads, if  
5 you want to help the most vulnerable among us and provide the police, fire, and  
6 emergency services a growing County needs, that takes resources, we pay more to get  
7 more. If you build it, they will, indeed, use it. Our parks, recreation centers, roads, and  
8 transit facilities are heavily used. Over time, we've seen shortfalls in infrastructure and  
9 maintenance for existing County facilities. It's a problem we began to identify last year  
10 under Marilyn Praisner's leadership and we made a small down payment of \$7 million  
11 toward it in last year's budget. I want to see us make more progress in next year's  
12 budget. Another major challenge that we must confront is the surge in condominium  
13 conversion that displaces our neediest residents. We need to work with our allies in the  
14 State Legislature, to develop better protection for renters who have no other housing  
15 options. John W. Gardner, the founder of common cause and who served in Lyndon  
16 Johnson's cabinet once said, "We are continually faced with a series of opportunities,  
17 brilliantly disguised as insoluble problems." So, it is with us, Montgomery County is an  
18 infinitely more interesting, sophisticated, and stimulating place than it was when my  
19 parents first put down roots here in 1964. Our County is a magnet for thousands across  
20 the nation and across the world because here, in Montgomery County, you can put  
21 down roots, work hard, get a good education for the children, and enjoy a good quality  
22 of life. I'm proud that people from other places bring their talents and abilities here to  
23 strengthen our economy and make our community better. No matter where you were  
24 born, no matter what language you speak at home, no matter where you worship on  
25 Friday, or Saturday, or Sunday, no matter what you look like, we all have this in  
26 common: We chose this place to be our home. It falls to us, to the nine of us, to be good  
27 stewards of this place that we love. To preserve the things that make it so special. Our  
28 job is to carry on a tradition of good government and good management. Our job is to  
29 enhance what is good and correct what's wrong. With the help of my colleagues and all  
30 of our constituents, I look forward to spending the next year doggedly pursuing those  
31 opportunities to make a great County even better. Ms. Praisner?

32  
33 Councilmember Praisner,

34 Mr. Leventhal, thank you. Mr. President, thank you for that very eloquent statement of  
35 what is special about Montgomery County and what is our role and responsibility as the  
36 elected leaders of this County. I want to thank my colleagues for the opportunity to  
37 serve them and the residents of Montgomery County and to work with you, Mr.  
38 President, as Vice President in this coming year. The role of Vice President is very  
39 clear: To support the Council President and to step in when the Council President is not  
40 available to run the meetings. I have a reputation for running meetings so they start and  
41 end when they're supposed to. I hope my colleagues, when that opportunity presents  
42 itself, will assist with that effort. I also want to thank Mike Subin, Phil Andrews, and





December 6, 2006

1 Nancy Floreen in their kind comments in nominating me for this position. I look forward  
2 to working with Mr. Leventhal's staff, my own staff, Joy, Sherry, Claire, Pat, and Jackie,  
3 and the staff of the fifth floor, those terrific folks and the staff who support these eight  
4 other terrific Councilmembers in doing the public's business. This is a special  
5 community and County. We have an awesome responsibility to the residents of this  
6 County and I know working together we can achieve that. Thank you.

7  
8 Council President Leventhal,  
9 Thank you, Ms. Praisner.

10  
11 [applause]

12  
13 Council President Leventhal,  
14 Our next item of business is a proclamation by Mr. Perez to Gale Ann May, taxi driver of  
15 the year.

16  
17 Councilmember Perez,  
18 Come on up, Gale. Every day across this County, we see -- there are so many things  
19 that are happening. So many people who are helping others and we don't know about it.  
20 I was recently meeting regarding the -- some taxicab legislation with Mr. Barnes, and he  
21 happened to have a copy of the national trade magazine. And I learned from that trade  
22 magazine that our friend, Gale May, had been named Taxi Driver of the Year, not just in  
23 Montgomery County, okay? Not just in the D.C. Metro area, but this is a national  
24 competition. What does Gale do for a living? Gale helps people in need with mobility  
25 impairments get to their appointments. She helps them to be independent. If we want to  
26 allow people who have disabilities, other people who don't have transportation get to  
27 where they need to go, we need people like Gale. Gale drives for Barwood. Gale is --  
28 and I've heard story after story about Gale taking people to the grocery store, not just  
29 leaving, but waiting, sometimes shopping with them, always with a smile. She got here  
30 timely this morning, at 9:15. Already having been to Towson and back in the weather of  
31 this morning. So, I wanted to make sure -- we've had a lot of conversations about  
32 taxicab reforms, and we've aired a lot of concerns and trying to make progress, but lost  
33 in the milieu of that discussion are the countless and often anonymous acts of heroism  
34 and good neighborliness by people like Gale. So, I wanted to take this morning to say  
35 thank you to you, on behalf of vulnerable people in Montgomery County who depend so  
36 much on you for their service. So, we have a proclamation that says, "Every year the  
37 Taxicab, Limousine, and Paratransit Association conducts a nationwide search to  
38 identify the Taxicab Driver of the Year. And this year, Montgomery County's own Gale  
39 Anne May was awarded the 2005 Taxicab Driver of the Year for her exceptional service  
40 in going the extra mile to provide her customers with a safe and welcoming mode of  
41 transportation. And, Gale is a 12-year veteran with Barwood and drives a Barwood taxi  
42 plus accessible van for local residents with disabilities. Ms. May is more than a taxi

December 6, 2006



1 driver, that is a gross understatement. She's a friend to all her patrons and is invested in  
2 their lives, establishing friendships with her regular customers, traveling extremely long  
3 or short distances on their behalf and helping some customers not only get to the  
4 grocery store, but using her own time to help with the shopping. Her own time is her  
5 own money. And Ms. May is an outstanding driver with a record for safety. A friend to  
6 many residents in this County with disabilities and a role model to all of us for her  
7 dedication, unfailingly good humor, and compassion." We wanted to give you this today  
8 to recognize you for being taxi driver of the year.

9  
10 Gale Anne May,  
11 Thank you very much.

12  
13 [applause]

14  
15 Gale Anne May,  
16 Thank you.

17  
18 Councilmember Perez,  
19 Do you want to say anything?

20  
21 Gale Anne May,  
22 Sure, thank you very much. That's all I want to say.

23  
24 Councilmember Perez,  
25 She's also humble! One picture, I just want to get this here.

26  
27 Unidentified,  
28 Can you hold up the...

29  
30 Councilmember Perez,  
31 Oh, yeah, let's open it up. Okay, great. Thank you. Thank you.

32  
33 Gale Anne May,  
34 Thank you very much.

35  
36 Councilmember Perez,  
37 Thanks, Lee. Thanks for sticking around.

38  
39 Council President Leventhal,  
40 Okay, turn to general business, Ms. Lauer, are there any agenda or calendar changes  
41 to announce?  
42

December 6, 2006



1 Linda Lauer,  
2 No changes today, thank you.

3  
4 Council President Leventhal,  
5 And approval of minutes, are there any minutes?

6  
7 Council Clerk,  
8 There are no minutes for today.

9  
10 Council President Leventhal,  
11 No minutes. Do we have any petitions? We understand there is one petition. That would  
12 be the petition for members of the at-one network supporting additional affordable  
13 housing in Montgomery County. There were 53 signers of that petition, which we have  
14 received. Turn to the consent calendar. I see no comments.

15  
16 Multiple Speakers,  
17 Move approval.  
18 Second.

19  
20 Council President Leventhal,  
21 Okay, motion is made and seconded, and there are comments from Ms. Floreen,  
22 followed by Mr. Knapp. Ms. Floreen?

23  
24 Councilmember Floreen,  
25 Thank you. Congratulations, Mr. President.

26  
27 Council President Leventhal,  
28 Thank you.

29  
30 Councilmember Floreen,  
31 The meeting is running very smoothly. I wanted to let you know that.

32  
33 Council President Leventhal,  
34 Thank you.

35  
36 Councilmember Floreen,  
37 We have Agenda Item Number 2E and I just wanted to bring attention -- bring Council's  
38 attention to it. It says advance taking for Park Lane improvements and there have, since  
39 the T&E Committee took this up, there have been some conversations with some  
40 affected property owners, and I believe some agreement as to the form of the resolution  
41 that is before us. I believe. And I'd like Mr. Orlin to tell us what corrections we need to  
42 make.

December 6, 2006



Glenn Orlin,

Sure. You see the letter, as per the Council's latest procedure, we send letters to all the affected property owners in advance takings, and as Ms. Floreen mentioned, we receive a letter from one of the affected property owners after T&E had met on Thursday, from the Dieringers], asking for several things, one of which that the temporary revertible easement that had been requested not be granted, as well as some stipulation in the contract with them that would spell out that how their property would be restored once work is done on their property, vis-à-vis the Park Lane Project, as well as under what conditions the County would have access on to the property. Dennis Robinson, Fran Marcus from DPWT are here. What I understand is that they've agreed to amend the contract to include those provisions and in terms of the resolution, what you see on Circle 4 of the resolution, the table there, where it says the -- the -- where it says "revertible easement for the Dieringers," that would come off, but the rest would remain.

Councilmember Floreen,

So, we will just correct that resolution accordingly. Thank you.

Council President Leventhal,

Thank you, Mr. Knapp? Feel free to take a beer. Thank you, Mr. ...I was. Feel free to help yourselves!

Councilmember Praisner,

He was in Canada.

Councilmember Knapp,

Public Safety Committee meeting -- had a Committee meeting yesterday and it was brought to our attention that Fire and Rescue Services had fewer than 300 of its members actually receive the flu vaccine. The requirement that was supposed to have occurred was that on October 24th all of our first responders should have received their flu vaccines. It is now December 6th and we only have about 300 folks who have actually received their flu vaccines. It is unclear to me as to whether or not we have actual doses of flu vaccines within Montgomery County government and we're just going different directions with them or if we just can't acquire the number of dosages required for our first responders. And I just -- if, in fact, we have the flu vaccines within Montgomery County government -- I thought we'd actually asked this question when Dr. Tillman was here -- and perhaps I'm off and it was the last six months when we'd asked that question. I'm concerned that if we actually have the vaccines that somehow we are using them on people other than our first responders at this point in time. I would just like to try -- I guess I just want to make my colleagues aware of that fact that we are running that type of a deficit and would actually ask the Chair of the HHS Committee and our Council President, his assistance in helping me look into that. I think this is a

December 6, 2006



1 critical, a dire need that we're now six weeks past when the first responders should  
2 have been vaccinated. It's unclear when the doses are going to become available. If we  
3 have them, I would encourage County government to actually move to make sure our  
4 first responders receive the vaccinations, and then to look to other priority groups after  
5 that.

6  
7 Council President Leventhal,

8 Thank you, Mr. Knapp. Let's -- I don't know who is the best person here representing  
9 the Executive Branch to take that message back but we'll certainly -- but Mr. Beach is  
10 here and we'll certainly ask him to take it back. And we'll follow up -- Mr. Farber, if you  
11 could help -- just remind us to get a note from myself and Mr. Knapp to Mr. Romer  
12 asking about the availability of flu vaccine for our public safety personnel. Thank you for  
13 raising that, Mr. Knapp. And Ms. Praisner?

14  
15 Councilmember Praisner,

16 I had a question about Item B of the Integrated Emergency Command Structure. The  
17 packet says something about the discipline use and says after the Committee session it  
18 was clarified. So, what is the use -- what is a disciplinary action situation on this? I  
19 wasn't clear. So, the regs now have been modified in order to accommodate the  
20 procedures? The IECS removal for disciplinary issues.

21  
22 Minna Davidson,

23 There had been a statement saying that -- a blanket statement saying that removal from  
24 the IECS is not a disciplinary action. Afterwards, there was clarification that some other  
25 regulations that are still in effect say that under certain circumstances removal from the  
26 IECS actually can be a disciplinary action. So, we modified the IECS regulation to say  
27 that removal from the IECS for failing to meet IECS certification requirements is not a  
28 disciplinary action, that leaves open the other possibility that other removals still are.

29  
30 Councilmember Praisner,

31 So are the other regs being reviewed on that issue or what?

32  
33 Minna Davidson,

34 Yes.

35  
36 Councilmember Praisner,

37 Okay. All right. Thank you.

38  
39 Council President Leventhal,

40 Okay. Thank you. Without objection -- oh, Phil, Mr. Andrews, I'm sorry?

41  
42 Councilmember Andrews,



December 6, 2006

1 I wanted to suggest, in addition to asking the CAO about the status of the flu vaccine for  
2 our public safety responders that we also ask what the update is on the usage -- by the  
3 availability of flu vaccine through the Public Health Service. We have ordered, according  
4 to the memo I got back from Dr. Tillman a few weeks ago, we ordered 5,000 doses, and  
5 they seem to be confident that that's sufficient. But I think it's important to ask what the  
6 current status is of those, as well. Because those were -- there was 5,000 for the whole  
7 County, I understand for the Public Health Service. It's wasn't clear how many additional  
8 vaccines were being ordered for County employees, and I think we need to pin that  
9 down and find out the status of each. So I would put those two together.

10  
11 Council President Leventhal,  
12 Great. And again, we will ask Mr. Farber to help us make sure that we follow up with an  
13 appropriate memo from Councilmembers. We can add Chairman Andrews to the memo.  
14 Okay. Are there any other comments on the consent calendar? If not, all those in favor  
15 will signify by raising their hands. It's unanimous among those present. That would take  
16 us to action on a special appropriation to the Park and Planning Capital Budget for  
17 Needwood Golf Course improvements. Mr. Silverman?

18  
19 Councilmember Silverman,  
20 Thank you, Mr. President. Committee recommendations to support funding of \$114,000  
21 in FY06 for the design -- just the design of a new irrigation system at Needwood and  
22 recommending that the Council consider the construction funding request as part of the  
23 FY'07 12 CIP. Committee also recommends that the project description form be  
24 amended to clarified that it is only funding design of the irrigation system and that cart  
25 path design and construction will occur at a later date. That's the recommendation of the  
26 Committee.

27  
28 Council President Leventhal,  
29 Okay, any other comments on the special appropriation? If not, there are six votes  
30 required to pass this appropriation. Do we need a role call vote for a... No, this is just  
31 raise your hands. Okay, I'm still learning. Okay, those in favor will signify by raising their  
32 hands. It is unanimous among those present. That will take us to legislative session. Do  
33 we have a legislative journal for approval?

34  
35 Council Clerk,  
36 There is no journal for approval today.

37  
38 Council President Leventhal,  
39 Okay, we have two bills to be introduced. The first comes from the HHS Committee, Bill  
40 41-05, the creation of an advisory board for the Montgomery Cares program. As my  
41 colleagues know, working closely with the County Executive we have a five-year goal of  
42 creating a \$20 million program that will lay the framework for universal access to

December 6, 2006



1 healthcare in Montgomery County. As the funding for Montgomery Cares increased  
2 substantially in this year's budget, a number of concerns were raised in the community  
3 about whether the management of this new program being born was receiving adequate  
4 attention from a senior enough body that if we're going to put this much public money  
5 into it, we ought not just simply leave it to sort of a loose federation of non-profit clinics,  
6 but there would be an overall board that would report to our health officer, and to us, to  
7 inform us on the status of how this program is coming along. So, the bill establishes an  
8 advisory board and we will take this up in the HHS -- we've already taken this up in the  
9 HHS Committee and there will be a public hearing on January 17th. Ms. Praisner?

10  
11 Councilmember Praisner,  
12 I just wanted to make sure it conforms to some of the guidelines we talked about when  
13 we reviewed the boards and committee's recommendations, the SERB board, as to the  
14 way it's structured?

15  
16 Unidentified,  
17 That was -- that was the intent...

18  
19 Councilmember Praisner,  
20 Okay. I will look -- or have somebody look at it in relationship to the kinds of  
21 recommendations we made. It looked like it when I looked at it, but I didn't have the  
22 serve report in front of me. But I'm assuming it does.

23  
24 Council President Leventhal,  
25 Okay. So then the resolution is scheduled a public hearing on January 17th. The motion  
26 -- no, we don't do that. Help me out here!

27  
28 Councilmember Praisner,  
29 Just on the zoning...

30  
31 Council President Leventhal,  
32 Just on the zoning do we need motions. Thank you. Then, next item for introduction is  
33 the Minority-Owned Business Purchasing Program, sponsored by the Council  
34 President. Public hearing scheduled for January 17th. We next go to call of bills for final  
35 reading. We have Bill 33-05, Silver Spring Parking Lot District, amendments, Ms.  
36 Floreen?

37  
38 Councilmember Floreen,  
39 Yes, the T&E Committee recommends approval of the extension of the Parking Lot  
40 District -- I will say to some degree over the objections of the Department of Public  
41 Works and Transportation, however, I think we satisfy their concerns for the language  
42 that is included in bold on the first page of the -- Glenn Orlin's report, which is to make it



December 6, 2006

1 very clear that this does not obligate the County to provide additional public parking in  
2 the northwest corner of -- of the intersection of Colesville and East/West Highway,  
3 which is the concern of the Parking District. Clearly it seemed to the Committee that  
4 excluding property that is immediately adjacent to the Silver Spring Metro, did not make  
5 sense, and so we support the inclusion of this chunk of land.

6  
7 Council President Leventhal,  
8 Mr. Perez?

9  
10 Councilmember Perez,  
11 Thank you. I'm glad we took this up in connection, on the same day that we took up the  
12 Needwood Golf Course improvements and what they have in common is that you need  
13 a putter to go from where the location of the Silver Spring Metro is to this property. Quite  
14 literally, a putter is what we're talking about --

15  
16 Unidentified,  
17 A chip shot!

18  
19 Councilmember Perez,  
20 It's not a chip shot, it's literally -- I initially said a chip shot, but it's really a putter and for  
21 me, what -- what persuaded me, this was the proverbial picture is worth a thousand  
22 words. And when you look at the Parking Lot District and you have a property that  
23 literally abuts the Metro, it just makes no sense to me that it's not in the Parking Lot  
24 District. And that reality is the essence of the bill, that we're trying to correct that  
25 accident of history. So, that's why I introduced the bill and I appreciate the swift action  
26 that the Committee took, the swift unanimous action, and I look forward to voting on it  
27 today.

28  
29 Councilmember Floreen,  
30 It's just been brought to my attention, Mr. Council President, that DPWT has asked us to  
31 delay taking action on this item. I have just this moment been provided with the  
32 Department's memo, where they are -- where the District is currently obligated by an  
33 outstanding revenue bond issue, and they seem to believe that we need to get input  
34 from Bond Council as to the effect of this proposed legislation on the obligation and they  
35 are advising us that it would be imprudent to proceed without such a review, that was  
36 just requested yesterday.

37  
38 Council President Leventhal,  
39 Is there anyone here from the Executive Branch who can talk about this last-minute  
40 glitch?

41  
42 Glenn Orlin,



December 6, 2006



1 Before -- ah, Joe's coming up, let me explain about the letter. The letter was received  
2 yesterday by Mr. Perez's office, and I received a copy, as well. I take full responsibility  
3 for not having made copies for this. I thought maybe it had been logged in, but obviously  
4 it was not. We realized when we walked in the room it hadn't been. So, I apologize for  
5 that.

6  
7 Council President Leventhal,  
8 How serious is this matter at Bond Counsel. What happens if we just go ahead and  
9 pass the bill?

10  
11 Joe Beach,  
12 It's hard to say, without the opinion of Bond Counsel. But since there are outstanding  
13 revenue bonds there, the County has certain obligations we just -- on the advice of the  
14 County Attorney, would like to get the advice of Bond Counsel before proceeding so we  
15 would ask for, you know, at least a one-week delay.

16  
17 Council President Leventhal,  
18 Does Mr. Hansen have any views on this?

19  
20 Marc Hansen,  
21 Mr. President, I'm sorry, this is the first I've heard of this. I can't comment.

22  
23 Glenn Orlin,  
24 If I could speak on this, I actually do have an opinion on this. The -- two things, first of  
25 all, the language that the Executive Branch is thinking of putting into the bill, which is the  
26 second part of the letter, is essentially language which would codify what the Committee  
27 is recommending as part of legislative intent, so they want some belt and suspenders. I  
28 don't think it's needed, but if it helps the Department feel more comfortable with what's  
29 happening here, I wouldn't have any problem with that. As far as the revenue -- as far  
30 as the effect on the revenue bonds, I don't see where there's a connection at all because  
31 the existing revenue bonds issues are based on the existing Parking District revenues  
32 coming in. This bill would only expand the size of the District. It could potentially result in  
33 more parking revenue, yes or no, depending upon whether the developer wants to go  
34 forward and build. I think it's more or less kind of a general bureaucratic thing, which is  
35 done to check with the Bond Council, it hasn't been done, but I don't think it will have an  
36 affect one way or another. So, I guess if I were to make advice to you, you can go  
37 ahead and approve this today, I don't think it will make a difference. However, if you  
38 want to give the Department -- and I think it's more than a week, what I understood was  
39 basically it would take about 30 days to get back from the Bond Counsel, which would  
40 be the first session once you get back. If the -- if the Department that's going to be  
41 implementing this would be more comfortable with that, then to get them the buy-in that  
42 you think they might need, then you might put it off for a month.

December 6, 2006



Councilmember Floreen,

Mr. President, it would seem to me that out of deference to the Department, I'd at least like to have a conversation with them before we take final action. If it's a question where we put the clarifying words, whether we put it in the legislation or in the -- in the accompanying language, I think that's what it would boil down to. If we could put this off until next Tuesday, I don't think that the world would come to an end and we would have an opportunity to clarify the situation.

Council President Leventhal,

Well, I'm open to what a majority of my colleagues want to do on this matter. But General Holmes was arguing, you know, pretty strongly against this bill...

Councilmember Floreen,  
Yeah.

Council President Leventhal,

...in Committee. It was not a secret to the Executive Branch that the Committee was considering this bill or that it was going to come before full Council. The bill has been pending for how many months, Mr. Perez?

Councilmember Perez,

Well, we have been talking about this issue for at least six months, Mr. Pasternak has been aware of this issue for many months. They did a study of the Parking Lot District and we explicitly asked that this issue be taken up -- I'm sorry, I'm having a little difficulty. I think this -- this doesn't add any burden to the Parking Lot District that are going to impact bonds. It's irrelevant. The belt and suspenders that we added in the Committee addresses the concerns that were brought to our attention. I think this is teed up and ready to go today. I'd recommend that we vote on it now. I'm not at all concerned about that.

Council President Leventhal,

Okay, so it sounds like the Committee Chair wants to wait a week, but the sponsor wants a vote now. Do we need to put a tabling motion on the table, Chairwoman Floreen? Or do you want to persist? I'm trying to resolve this.

Councilmember Perez,

Do it this afternoon. Give them a couple of hours, if they want to review it. I'm happy...

Council President Leventhal,

Okay.



December 6, 2006

1 Councilmember Floreen,  
2 Why don't we delay it? If we can table this to this afternoon, why don't we do that and  
3 see if we can get some further clarification.

4  
5 Council President Leventhal,  
6 We're back this afternoon for a public hearing. So, we will give them that much time to  
7 consult with Bond Council. We'll be back at 1:30 for a public hearing.

8  
9 Councilmember Floreen,  
10 All right, Mr. Orlin, can you convey that? Yes, thank you.

11  
12 Councilmember Perez,  
13 Hopefully they know how to get here.

14  
15 Councilmember Floreen,  
16 Earn your keep, sir.

17  
18 Council President Leventhal,  
19 Next up is Bill 20-05, Transmission Facility Coordination Amendments. Ms. Praisner.

20  
21 Councilmember Praisner,  
22 Thank you. The Management and Fiscal Policy Committee reviewed this legislation.  
23 You will also note that Councilmembers will be acting on a Zoning Text Amendment, as  
24 well, that deals with the whole telecommunications facility. The attempt of this bill is to  
25 clarify the telecommunications facility's radio broadcast towers and television broadcast  
26 towers. It's subject to the transmission facility coordinating process, which is overseen  
27 by the Department of Technology Services and staffed by the Office of Cable and  
28 Communication Services. The TFCG, Mr. Denis will love that, Transmission Facility  
29 Coordinating Group, is the group that conducts the technical review of all tower  
30 applications to determine if the information is correct and to review what other options  
31 might be available from a standpoint of transmission sites and also what the impacts  
32 might be. And if there is some special exception process, as folks know, the group then  
33 reviews the application and makes comments to the Board of Appeals. Both the Board  
34 of Appeals and the Planning Board use that Commission. The Committee  
35 recommended that the existing process for tower review remain unchanged. The one  
36 issue that Ms. Floreen raised, which is an important one, is how the community knows  
37 about the group's work and what -- how transparent that process is. In our  
38 conversations with the cable office, we reviewed the fact that they have greatly  
39 improved the website, and the fact that through the web folks have the kind of access to  
40 information that I think we are interested and anxious to have available. And so we  
41 directed -- the Committee directed the office to continue to work with the Board of  
42 Appeals staff and Park and Planning so that when there are issues before those two

December 6, 2006



1 entities, the community gets the kind of notice and information as it relates to tower  
2 construction. We didn't believe that that required any amendment to the bill. It is part of  
3 our public record. Basically the legislation is -- is to clean up and make technical  
4 improvements in the legislation and the Committee unanimously recommends approval.  
5 Oh, somebody is [INAUDIBLE].

6  
7 Council President Leventhal,  
8 Okay, thank you very much. If there are no other comments on Bill 20-05, it requires a  
9 roll call vote.

10  
11 Council Clerk,  
12 Mr. Denis.

13  
14 Councilmember Denis,  
15 Yes.

16  
17 Council Clerk,  
18 Ms. Floreen.

19  
20 Councilmember Floreen,  
21 Yes.

22  
23 Council Clerk,  
24 Mr. Subin.

25  
26 Councilmember Subin,  
27 Yes.

28  
29 Council Clerk,  
30 Mr. Silverman.

31  
32 Councilmember Silverman,  
33 Yes.

34  
35 Council Clerk,  
36 Mr. Knapp.

37  
38 Councilmember Knapp,  
39 Yes.

40  
41 Council Clerk,  
42 Mr. Andrews.



December 6, 2006

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez.

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner.

Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal.

Council President Leventhal,  
Yes, the bill passes unanimously. Next up Expedited Bill 29-05, Condominiums -  
Conversion of Rental Housing. Mr. Silverman?

Councilmember Silverman,  
Thank you, Mr. President. The Committee recommends approval with amendments.  
The current law requires the developer who intends to convert a rental housing facility to  
condominiums to offer life tenancies and three-year extended leases to certain  
households. County's authority to require a developer to offer these extended leases  
derives from specific provisions of state law. This legislation will modify the priority rules  
governing allocation of extended leases when the number of households eligible for  
extended leases exceeds the 20% cap established in state law. That's 20% of the total  
units in the building. There are clarifying amendments. If you turn to page 3 of the bill,  
the easiest way to look at this is the chart. Bill 29-05 changes the priority given to the  
four household categories. Specifically, the bill increases the priority given to  
households that meet the income limit but do not include a senior citizen or a disabled  
individual and decreases the priority given to households that do not meet the income  
limit but include a senior citizen or disabled individual. In essence, Table 1 is a clear  
indication of first and second priorities don't change and third and fourth priorities flip  
around when it comes to three-year leases, giving priority to the income limit test rather  
than simply someone is a senior citizen or disabled individual. Bill 29-05 also changes  
the priority within the four household categories. And you have to go to Table 2, which is  
on the top of page 4. The current law says priority is based on seniority and continuous

December 6, 2006



1 residence in the rental facility. The bill as drafted indicates that the priority will be based  
2 on income, with the lowest income household receiving the highest priority and the  
3 highest income household receiving the lowest priority. There were several Committee  
4 amendments. Ms. Praisner recommended an amendment to clarify eligibility for an  
5 extended lease based on the income of the individual or individuals who reside in a  
6 rental unit -- which we recommend -- which the Committee went along with to amend  
7 the bill to define the terms "Annual Income" and "Household" as defined in State law.  
8 There was an amendment that the Committee adopted to allow an individual or entity  
9 that leases a housing unit, but doesn't occupy the unit, to execute a three-year extended  
10 lease on behalf of the household that occupies the unit and to allow the individual or  
11 entity to retain the lease for a three-year period, even if there's a change in the  
12 membership of the household, so long as the household that occupies the unit meets  
13 the eligibility requirement. This is a fancy way of saying -- if you have a non-profit that is  
14 the actual lease holder, that we will be able to -- as long as the occupants of the unit  
15 meet the criteria, they will be able to retain the tenancy. There is also -- I'm just looking  
16 at the packet here. Did we adopt the last language change?

17  
18 Kathleen Boucher,  
19 Yes. I apologize that's not in the memo...

20  
21 Councilmember Silverman,  
22 I thought so.

23  
24 Kathleen Boucher,  
25 ...but it is on lines 121 - 123 of the bill.

26  
27 Councilmember Silverman,  
28 This is the grandfathering provision.

29  
30 Kathleen Boucher,  
31 That's right.

32  
33 Councilmember Silverman,  
34 That's right. So we've got a December 6th date on this.

35  
36 Kathleen Boucher,  
37 That's correct.

38  
39 Councilmember Silverman,  
40 And I apologize, but I don't see it in the packet, I think, Ms. Floreen, I think it was 2-1 in  
41 terms of this -- with Ms. Floreen in the minority and I see her light is on. That's a  
42 Committee recommendation.



December 6, 2006

Council President Leventhal,  
Ms. Floreen?

Councilmember Floreen,

Thank you. It's not that I don't support the general objective of the bill, but I was concerned about the treatment of disabled households by changing the priority. And since the Committee meeting, I've had occasion to meet with some advocates for the disabled who have asked questions and I've asked staff to follow up on. The issue is if several disabled individuals occupy the same unit, would their resources be added together in a way that could potentially disqualify them for living in the unit? And an additional question was what about a staff person assigned to reside with the inhabitants of the unit, how would that be handled in a way to calculate income in the household? And I've asked staff to look at -- there have been very little time for the research on this subject. But this is a concern of mine that we unintentionally knock out the non-profit community or folks in group situations whom we might -- would otherwise very much want to protect with this language.

Council President Leventhal,  
Ms. Davison, oh, sorry.

Councilmember Floreen,  
And I don't know if anyone has an answer to that.

Council President Leventhal,  
Did you want to comment on that, Ms. -- Elizabeth, introduce yourself for the technology, please.

Elizabeth Davison,  
Yes, congratulations, Mr. President.

Council President Leventhal,  
Thank you.

Elizabeth Davison,  
My name is Elizabeth Davison, I'm Director of the Department of Housing and Community Affairs. This is the first I've heard of this question. I believe under current law the -- if there were several disabled residents occupying one unit, that their income would be added together. But the staff person, I guess it would depend on what their income was, whether you were -- they had -- they were meeting the criteria of -- being -- the lease holder being the non-profit versus the -- the resident. I think that would partly depend on -- on who was there. But I still think the income test would probably hold.



December 6, 2006

1  
2 Kathleen Boucher,  
3 Just to clarify the priority issue here, the situation that you're describing, where a  
4 household does have disabled individuals and a staff person would qualify for a three-  
5 year lease because it has the disabled individual. The question would be priority.  
6

7 Councilmember Floreen,  
8 It would be –  
9

10 Kathleen Boucher,  
11 If they meet the income limit they have a higher priority than if they don't, particularly  
12 under the amended...  
13

14 Councilmember Floreen,  
15 Well, right -- well, right now, with the proposed change, they would go from third to  
16 fourth...  
17

18 Kathleen Boucher,  
19 That's correct.  
20

21 Councilmember Floreen,  
22 ...in this scaled priorities. And I'm not sure that's a direction we really want to take  
23 without further understanding that.  
24

25 Elizabeth Davison,  
26 I think that there are a couple of other issues. Under the State law using the Secretary  
27 of State's income numbers, there is one number, no matter what household size you  
28 have. So, if we change the State law so that a different -- like the HUD area wide  
29 median, which was based on household size, then if you had three people in the  
30 household, you'd be -- the test would be a higher number than if you just had one  
31 person, so that could make a difference in that kind of situation. But again, that would  
32 be state -- a change to the State law.  
33

34 Kathleen Boucher,  
35 Yeah, that's a change to State law that actually I know Joe Giloley and myself discussed  
36 with Melanie Wenger and Vicki Gaul. It was my understanding that Vicki was going  
37 [INAUDIBLE] were going to pursue that through the County Executive.  
38

39 Elizabeth Davison,  
40 Yes, we are.  
41

42 Kathleen Boucher,



December 6, 2006



1 And work with Melanie...

3 Elizabeth Davison,

4 Yeah, because we think having one number no matter what your household size isn't  
5 really fair, because you could then end up with the 62-year-old lawyer who makes, you  
6 know, a decent living, would get priority. And would have the same income test as a  
7 household of three or four people.

9 Councilmember Floreen,

10 Or three disabled people. And that is the question. Well what would the rule be at this  
11 point for a household of three?

13 Elizabeth Davison,

14 It's the same for a -- whether it's a household of one or a household of 3, which is  
15 \$57,400.

17 Councilmember Floreen,

18 \$57,400. Yeah.

20 Elizabeth Davison,

21 So, if they were living on Social Security, they probably would meet it. But if they had  
22 other, more substantial means, they wouldn't...

24 Councilmember Floreen,

25 Well, I know that what the non-profit group's raised with me were the situations where  
26 there were family kinds of commitments in terms of income and I don't claim to be an  
27 expert in terms of the revenue source that a family might be asked to generate, to  
28 support residents in these non-profit situations. But I think this would warrant a further  
29 conversation and I apologize for bringing it up at the very last moment, but it just came  
30 to my attention, I raised it with the group just on Friday and I don't think they had a  
31 chance to comment -- or to consider how this might have an impact on them.

33 Elizabeth Davison,

34 I think one point to make for everyone's information, this could not cover the Pavilion  
35 situation. That's too far down the road.

37 Councilmember Floreen,

38 None of this would cover the Pavilion...

40 Elizabeth Davison,

December 6, 2006



1 Right, none of it would. Just so everybody knows that. Of course, it raised so many of  
2 these issues with non-profits and with the disabled. And several of the changes that  
3 have been made would affect that, but that one would not.

4  
5 Councilmember Floreen,

6 If this were verified to be an issue, particularly with respect to staff income, Elizabeth,  
7 would it change the Department's position on this, rearranging the priorities?

8  
9 Elizabeth Davison,

10 I guess my feeling is that the Pavilion situation is kind of an extreme. I think that we're  
11 all concerned about that. But I think I would be very surprised to find another building,  
12 other than that that had a multiple units, I mean very large extent, units that are groups  
13 of disabled and staff members. I think that would be much rarer. So, I think that given  
14 that the Pavilion is sort of off the table for this discussion, that I would still hold to the  
15 same opinion.

16  
17 Councilmember Floreen,

18 Well, I -- given the fact that we can't address the Pavilion situation at this point, I would  
19 really be a lot more comfortable if we could get a straight answer -- do a little bit more  
20 research on the question of household income and how groups in the disabled category  
21 would fare under that proposed rearrangement of the priority listings?

22  
23 Elizabeth Davison,

24 Well, I don't know what the income of the staff people who do this kind of work would  
25 be. Probably under the \$57,400.

26  
27 Councilmember Floreen,

28 Well, we would have to find out.

29  
30 Kathleen Boucher,

31 Just to step in, I don't think we need more research on the law. The law does define  
32 household and that's one of the things bill is clarifying, is taking in the definition of  
33 household under state law, taking in the definition of annual income. So, on the situation  
34 you're describing, income is going to involve the annual income of all the folks living in  
35 that unit, including staff director, currently. Now, I also think the County has authority, if  
36 they wanted to, to somehow give that household eligibility for a three-year lease with  
37 higher priority, if you want to. That's another issue.

38  
39 Councilmember Floreen,

40 Being treated in a different way?

41  
42 Kathleen Boucher,

December 6, 2006



1 Right.

2  
3 Councilmember Floreen,  
4 You need to break it out.

5  
6 Kathleen Boucher,  
7 The flexibility that the County has is with three-year leases and to define the households  
8 that it wants to be eligible for three-year leases, to have that eligibility, and then to  
9 prioritize, that's the County's authority. I think we're very clear on -- I'm clear on how  
10 current law applies in the situation. That household would be eligible for a three-year  
11 lease, but it's priority, if it didn't meet the income limit, would be last under this bill.

12  
13 Councilmember Floreen,  
14 Right. Yeah. But if we were to investigate that -- well, if we were to provide that, what  
15 we would -- what would we do? Leave disabled individual in the third priority?

16  
17 Kathleen Boucher,  
18 Again, thinking off the top of my head, I think what you would do is you would not -- you  
19 would modify the definition of annual income so it didn't include a staff person's income.  
20 I think that's what you're going after -- you're going for.

21  
22 Councilmember Floreen,  
23 Are we in a position to do that?

24  
25 Kathleen Boucher,  
26 By way of amendment, you could do that. If the Council were inclined to do that, I'd  
27 suggest time to actually get some language before you, rather than adopt something in  
28 concept.

29  
30 Elizabeth Davison,  
31 I think you have a situation in many cases where the staff person lives in a separate  
32 unit, not in the same unit with the disabled.

33  
34 Kathleen Boucher,  
35 Right, the Councilmember Floreen is describing it different. She's describing a situation  
36 where the staff member lives in the unit.

37  
38 Councilmember Floreen,  
39 That was described to me by one of the non-profits. You know, we haven't had an  
40 extensive conversation with them about the various configurations of staffing and the  
41 like that might play into this.

December 6, 2006



1 Councilmember Silverman,

2 If I may, is this -- if we're talking about language change or clarification, is this  
3 something that could get clarified within a week.

4  
5 Kathleen Boucher,

6 I don't think it's a clarification. It's substantive change to the bill. I think I could get  
7 language for you to consider by next week.

8  
9 Councilmember Floreen,

10 Would that change the -- the notice?

11  
12 Kathleen Boucher,

13 The notice of intention to convert...

14  
15 Councilmember Floreen,

16 Would this be covered by the notice for the bill?

17  
18 Councilmember Silverman,

19 Sure.

20  
21 Kathleen Boucher,

22 Yes -- oh, by our notice? Yes, yes.

23  
24 Multiple Speakers,

25 [INAUDIBLE]

26  
27 Councilmember Floreen,

28 So then I request that if we could put this off for a week to address this issue.

29  
30 Council President Leventhal,

31 Okay, fine. Expedited Bill 29-05 will come back on next week's agenda. Which takes us  
32 to 23-05, Domestic Violence Coordinating Council - Establishment. Mr. Andrews?

33  
34 Councilmember Andrews,

35 Thank you, Mr. President. The Public Safety Committee met twice to consider this bill  
36 which is to, as the bill's title implies, to establish a Domestic Violence Coordinating  
37 Council to ensure that all aspects of domestic violence issues are considered and  
38 improved to the very best extent that we can. The Council's had a strong interest in  
39 improving services to domestic violence victims for a long time and has taken a number  
40 of steps to do so. This Domestic Violence Coordinating Council would essentially  
41 replace what was in place for a number of years, which was a task force against  
42 domestic violence. And the Committee considered the bill carefully, supports it, and

December 6, 2006



1 made several Committee amendments that I will go through and see if there are any  
2 questions about. The bill, in terms of membership, requires the County Executive to  
3 appoint three members of the public with professional experience dealing with domestic  
4 violence, and one member of the public, who is either a current or foreign victim of  
5 domestic violence. We amended it to say that the County Executive would appoint four  
6 members of the public who have a demonstrated interest in domestic violence issues,  
7 including at least one individual who is a former victim of domestic violence. We wanted  
8 to -- we thought we heard from a number of -- of the stakeholders, including the office  
9 of the Sheriff, that it would be problematic to require the current victim of domestic  
10 violence be appointed, and we also thought that that was problematic. And so we  
11 changed that to require that at least one was a former victim of domestic violence be  
12 appointed among the four. In terms of an annual report, we set a date -- September 15th,  
13 for its delivery so it would be received on time for the Executive and others to work it  
14 into the proposed budget for the coming year. In terms of the authority of the Council,  
15 the Domestic Violence Coordinating Council, we recommended that it have broad  
16 authority in terms of authorizing the Council to engage in advocacy efforts at the state  
17 and federal levels. But that, also, in order to assure that there is County is speaking as  
18 much as possible with one voice, that the Council would need to work with the Office of  
19 Intergovernmental Relations to assure that the testimony and the efforts are  
20 coordinating and on the same page. We felt that that was important, as well. In terms  
21 of... We can come back to any of these.

22  
23 Councilmember Praisner,  
24 There are no lights on right now, go ahead.

25  
26 Councilmember Andrews,  
27 Okay. If there are questions we'll come right back. We also recommended that in terms  
28 of duties, that the Domestic Violence Coordinating Council also advise the Criminal  
29 Justice Coordinating Commission as well as the County Executive and the County  
30 Council. In terms of the really technical amendment, the name of the Victim's  
31 Assistance of Sexual Assault Program was really the wrong agency to refer to in the bill.  
32 We substituted the term "Abused Persons Program," which is a more appropriate  
33 agency to refer to since that is their focus. And then we spent a fair amount of time and  
34 this is where there was the most discussion and may still be the most discussion, about  
35 staffing of the Council and how we would handle that. And so let me present essentially  
36 what the Committee discussed and heard. Essentially the decision was whether to have  
37 the staffing with the Office of the Sheriff, which has the current Domestic Violence  
38 Coordinator, Hannah Sassoon, based in the Sheriff's Office, who's done great work, or  
39 whether to have the staffing done by Health and Human Services, which is also  
40 extremely involved in domestic violence services. And the bill, as proposed, would have  
41 the Chief Administrative Officer make the decision about where the staffing would go.  
42 We received estimates from the Sheriff's Office and we had a memorandum that came

December 6, 2006



1 over that was given to the Committee during discussion, also a memorandum that came  
2 over on December 2nd from the Health and Human Services Department that  
3 essentially said that Health and Human Service's indicated they could staff this with  
4 current staff. The Office of the Sheriff's position was that, at least when the Committee  
5 was considering it, that it would cost approximately \$100,000 to staff the position. For  
6 that reason, the Committee did not recommend changing the original language, which  
7 would have the Chief Administrative Officer consult with members of the DVCC  
8 regarding staffing needs and make the decision. So, we did not change the proposal in  
9 the current bill for that reason. It was certainly not that we don't think the Sheriff could  
10 do an excellent job. We know -- they already do an excellent job in whatever they do,  
11 and that's especially true in the area of domestic violence where they have bent over  
12 backwards and taken major initiatives on and I believe probably do as good a job in the  
13 area of Domestic Violence as any Sheriff's Department in the country, and probably  
14 better. But that is -- that was the Committee's reasoning given the information we have  
15 had at the time. One other issue and that was the relationship to the Domestic Violence  
16 Fatality Review Team, which is a new -- a new body that is set up to review each case  
17 and to assess what could be done differently in order to prevent future tragedies and to  
18 improve services and evaluate what happened, whether anything went wrong in terms  
19 of how the system dealt with the case and make recommendations. We did not merge  
20 the two together, we thought that really they are separate and ought to remain separate,  
21 so we did not have one reporting under the other or combine them. So, the Committee's  
22 recommendation is to support Bill 23-05 and with those amendments that I described.

23  
24 Council President Leventhal,  
25 Mr. Silverman, followed by Mr. Subin.

26  
27 Councilmember Silverman,  
28 Thank you, Mr. President. I appreciate the hard work of the Committee. Just have a  
29 disagreement on the issue of staffing and what I'd like to propose, I will pass out an  
30 amendment -- there should be enough copies for everybody. No, there's plenty of  
31 copies. I will just talk very briefly about this and then turn it over to Mr. Subin. We think  
32 that the Sheriff is doing a great job on this issue and I know we will want to hear from  
33 Ray in a couple of minutes. The question really is where the -- the overall staffing  
34 coordination should be, and those of us who sit on the Health and Human Services  
35 Committee, I think, frankly, have legitimate concerns about the tasks that are being  
36 taken on by the health -- Department of Health and Human Services. And this would be  
37 yet another one. This doesn't preclude, and we would expect that HHS would be  
38 involved in this because it's an interagency coordinating Council, but the question is  
39 quite frankly is within a \$200 million budget with an array of programs and services that  
40 HHS provides, whether, quite frankly, there will be the ability to have the Department  
41 have the ability to focus as much as we think would happen out of the Sheriff's Office.  
42 This is not a point in time where we would be getting into the nitty gritty of exactly how

December 6, 2006



1 many people would be needed. That's more appropriate in the -- in the budget that we  
2 would take up in FY07. Obviously there would be a need to have some dollars in the  
3 Sheriff's Office to handle this, but I think the overall question -- the policy question -- is  
4 where do we want to house this very important interagency Council and that's why, with  
5 all due respect to the recommendations of the Committee, Mr. Subin and I feel very  
6 strongly that the Council ought to be in effect staffed through the Sheriff's Office. So, I  
7 am going to move this amendment.

8  
9 Council President Leventhal,  
10 Okay.

11  
12 Councilmember Silverman,  
13 And then I know Mr. Subin wanted to comment.

14  
15 Council President Leventhal,  
16 Just very quickly, Mr. Subin, before you speak. Sheriff Kight, do you want to join us here  
17 at the table, and is there a representative of the HHS Department here? Dudley Warner.  
18 Okay, Dudley if -- Mr. Warner and Sheriff Kight, please have your seats here. Mr. Subin.

19  
20 Councilmember Subin,  
21 Thank you, Mr. President. There are several issues here. Mr. Silverman has certainly  
22 touched on one of them, which is where will we see, in all probability, a greater focus  
23 and priority on the program? It is clear that HHS has a very large agenda in front of it  
24 and this would just be one more in an area where they also have a number of task  
25 forces, boards, committees that -- that they need to staff and to serve. It is not to say  
26 that Domestic Violence is not a priority for HHS. Domestic violence is something where  
27 Sheriff Kight has become a national leader, and this would very neatly fit into the  
28 package that he already has before him. He has safe start kits. So he, in all of the  
29 domestic violence cases that commence in the courts, is the first person, the first  
30 organization to see the children who are either witnesses and or victims...

31  
32 Councilmember Andrews,  
33 [whispering] That's fine. I'd like to have the Sheriff...

34  
35 Councilmember Subin,  
36 ...one of the two. He has his Domestic Violence Unit. He has a unit of law enforcement  
37 personnel, that is what they focus on, that is all they do. These are not folks who as a  
38 collateral duty at the end of the court day, come out of the courtroom where they  
39 provide courthouse security and then go out and serve the warrants. Those same folks  
40 are the folks who provide the wellness checks for all of the victims while the protective  
41 orders are in existence. So there is a year of dealing with all of the victims, all of the  
42 current victims, as those orders are in existence. So I think given that the Sheriff has

December 6, 2006



1 three key issues before him, and only three, as opposed to HHS's where I think we've  
2 lost count, this issue will receive that much higher spotlight and be in front of the Sheriff  
3 all the time, as it is now. Nobody else has a unit like that and spends as much time on  
4 domestic violence as the Sheriff's Department. He does have that coordinator in  
5 Hannah Sassoon, and I believe that this is the most appropriate place for it to be. Again,  
6 as Mr. Silverman indicated, this certainly is the question of staffing, and I just don't see  
7 how that wouldn't be a question at all whether or not it was in HHS or the Sheriff. HHS is  
8 overburdened. HHS needs more people to do the job that they are doing. So there  
9 would have to be additional staff. The question right now is how many would it take to  
10 deal with this task force and at what level and is there an additional piece that would  
11 need to be added to it. As a practical level, this person couldn't start for at least three  
12 months anyway, which will leave us two months or so in a void before July 1st. So as  
13 Mr. Silverman indicated, I think that this should be -- that piece of it should be  
14 addressed as a part of the budget rather than out of context with the budget.

15  
16 Council President Leventhal,

17 Thank you, Mr. Subin. I see that Mr. Perez and Mr. Knapp both want to speak. Did you  
18 want to go ahead of Sheriff Kight or do you want to let him make his case first? Just  
19 very briefly, Sheriff, just for a moment or so if you could explain your interest in this and  
20 please introduce yourself for our technology.

21  
22 Sheriff Ray Kight,

23 I'm Sheriff Ray Kight, and I'd like to apologize to the Council for being late this morning.  
24 I was misinformed as to times and so forth and I was also...

25  
26 Council President Leventhal,

27 Actually, you're right on time. We just needed you right now. We expect you're doing  
28 other important work.

29  
30 Sheriff Ray Kight,

31 We will gladly accept this assignment in the Sheriff's Office, and we will do the best we  
32 can to see that it's implemented and implemented properly. However, I was under the  
33 impression that it was a fiscal problem, and HHS, under my understanding, had the  
34 necessary resources already on-board and budgeted where we didn't, and in order for  
35 us to staff it, I think, adequately I believe it was initially 1.5 work years, at approximately  
36 \$100,000. For that reason, I thought that we were out of the realm of a possibility of  
37 getting this assignment, but we will gladly accept it at the Council's discretion to fund  
38 this project in my office. We will gladly accept that duty.

39  
40 Council President Leventhal,

41 Okay, Mr. Warner, did you want to comment at this time.



December 6, 2006



1 Dudley Warner,  
2 Dudley Warner, Health and Human Services. I would only just say that Health and  
3 Human Services thought that we could do it with existing staff and that we could make  
4 use of the infrastructure that we have to help with that process. We would support  
5 obviously whatever the Council decides and do the best we can to make it successful.  
6

7 Council President Leventhal,  
8 Okay, Mr. Perez, followed by Mr. Knapp.  
9

10 Councilmember Perez,  
11 Thank you, Dudley, for that offer. And I appreciate all the hard work that you do there  
12 under the most challenging of circumstances. I was following the debate closely on the  
13 Committee, and my understanding was similar to what Sheriff Kight said, which is I got  
14 the sense that the Committee was inclined to go with the Sheriff's Department but the  
15 issue was really the fiscal impact. And so I get the sense that there is consensus -- and  
16 again not meaning disrespect to the Department of Health and Human Services -- that  
17 the best place to situate this is in the Sheriff's Department. And I think, as we're making  
18 important policy decisions, that the first question that we want to ask and I know the  
19 Committee asked was what's in the best interest of the issue? I think, as I followed it  
20 from a distance, that there was -- and I don't want to put words in my friends' or  
21 colleagues' mouths -- a sense that the Sheriff's Office was that place. I've been to so  
22 many national fora on the issue of domestic violence where the work of Sheriff Kight  
23 comes up and that's a remarkable legacy and record of accomplishment that you have  
24 there, and it just strikes me that we would be well advised to do that and to avail  
25 ourselves of your services. And I don't know that today is the time to have the  
26 conversation about is it going to be one FTE or half an FTE or something like that. I  
27 think right now we're passing a bill in which we're asking the question what's in the best  
28 interest of serving the issue, and it seems to me that having it in the Sheriff's Office is in  
29 the best interest of this critical issue of combating domestic violence. So I certainly do  
30 intend to support the amendment.  
31

32 Council President Leventhal,  
33 Mr. Knapp?  
34

35 Councilmember Knapp,  
36 Thank you, Mr. President. I just had one question for Sheriff Kight, because I think as  
37 Mr. Perez just put it I think it was in fact the intent of the Committee to move in the  
38 direction of the Sheriff's Office, but we were under the impression I think that -- and  
39 having done the Sheriff's budget, knowing that you are squeezed pretty tightly already,  
40 that it would be difficult to actually implement this given current staffing. And so while I  
41 agree from any policy perspective, we don't necessarily want to have that enter into it,  
42 by the same token, since I think the Council is in complete agreement that this is a

December 6, 2006



1 critically important issue we didn't necessarily want to not have it be able to be  
2 implemented, and so I guess my question to you, Sheriff, is if we take the action today  
3 and put this into place without accompanying resources, how are you situated to be  
4 able to react and get the staff to get it rolling?

5  
6 Sheriff Ray Kight,

7 Sir we're on rather -- down to the bone with resources as it is right now. And without the  
8 proper resources and funding, it would be extremely hard for me to accomplish this  
9 mission, if you will. With adequate resources, though, I feel confident we could do a  
10 good job. I have an excellent domestic violence staff, both deputies and civilians, and  
11 this would be an additional duty with another staff person or temporary or whatever we  
12 may need to accomplish this.

13  
14 Councilmember Knapp,

15 So the issue the Committee wrestled with, which was one of a fiscal element, was --  
16 and that requirement is still there.

17  
18 Sheriff Ray Kight,

19 Yes, sir.

20  
21 Councilmember Knapp,

22 You're still going to need the resources to be able to address that. Okay. I think that Mr.  
23 Andrews and I are of a similar mindset that I think we're comfortable from a policy  
24 perspective to move ahead. The challenge is I think -- and we need to figure out how to  
25 do this quickly. And so I would issue for my colleagues' consideration that we may need  
26 to -- I don't know if it's \$100,000 or \$50,000, what we need to get to the remainder of  
27 this year, but if we're going to do this and we think it's important, that we also have  
28 some type of appropriation that accompanies in the near term to get that implemented.  
29 That was the other reason I personally felt we should put it in HHS, given the  
30 presentation, because we could implement it as soon as possible without additional  
31 expenses. I agree I think you are the best place to put it, we just need to make sure we  
32 address the fiscal issue. We need to put something in place to address that I would say  
33 in the next week or two.

34  
35 Councilmember Andrews,

36 All right, so what I think is being said here is that we'd like to make a Committee  
37 recommendation that we go this route, because we do think this is a good idea to do.  
38 We have to then come back, if we do that, at an early date and address what's  
39 necessary to staff it. Personally I think it should be able to be staffed for less than  
40 \$100,000. And that would be what I would push for, because I think it could be staffed  
41 for less than that and very well staffed. I know you would do a great job. So let's make it  
42 a Committee recommendation for placing this with the Office of the Sheriff with this

December 6, 2006



1 language that Councilmember Silverman has proposed, and then come back as an  
2 early date to pass a supplemental appropriation, if necessary, but I hope that we can -- I  
3 think it should be able to be done for less than 100,000. That's my own analysis.

4  
5 Council President Leventhal,  
6 Mr. Subin?

7  
8 Councilmember Subin,  
9 Thank you, Mr. President. At this point, this couldn't get started until just about April 1st,  
10 so that would just for this fiscal year leave us April, May, June to appropriate for. I would  
11 love to see this start as early as possible, but it was suggested July 1st because of the  
12 budgetary issues. What I would suggest is that if it is the Council's intent to move ahead  
13 with this as of April the 1st, that we would ask the Sheriff to come back with one half  
14 staff year for April, May, and June. And then it is clear to me that the Sheriff's Office is  
15 probably overtaxed as far as what we have laid on him without additional resources,  
16 and so, Sheriff, if you would come back, if you needed to, in the budget and then make  
17 your case for an additional half person or that additional person over the half person, I'm  
18 sure we'd all entertain your arguments and see where it went from there. But I would  
19 think that just for April, May, and June, we could deal with one half a staff person and  
20 then move on that appropriation while this legislation is taking its 90 days to take  
21 fruition.

22  
23 Councilmember Andrews,  
24 Sounds like a good approach.

25  
26 Council President Leventhal,  
27 Okay, so the Committee recommendation then as amended is before the County  
28 Council. This is a roll call vote. Was there another comment on domestic violence?

29  
30 Councilmember Silverman,  
31 Yes.

32  
33 Council President Leventhal,  
34 Your light wasn't on.

35  
36 Councilmember Silverman,  
37 I'm sorry.

38  
39 Council President Leventhal,  
40 Mr. Silverman.

41  
42 Councilmember Silverman,

December 6, 2006



1 I'm sorry, I have one other amendment. This is really technical, but I think Kathleen  
2 brought this up -- brought this to my attention. In the list of duties which are on Circles 3  
3 and 4, this just adds -- and actually I'm not sure it's in a number 6, because I think  
4 there's a 6 and 7 already.

5  
6 Kathleen Boucher,

7 The amendment is drafted as a new 6 which would need 7 and 8 amended.

8  
9 Councilmember Silverman,

10 Fine. There's a numbering issue, but the substantive issue is, which Mr. Andrews had  
11 already pointed out. About what the State did in terms of the creation of the Domestic  
12 Violence Fatality Review Team, and this just simply adds another duty to the Council  
13 which is just to evaluate the findings and recommendations of the team. It doesn't -- is  
14 not a substitute. It's just an additional item for them to take a look at along with  
15 everything else they're supposed to take a look at.

16  
17 Councilmember Andrews,

18 Fine. That's fine.

19  
20 Councilmember Silverman,

21 Okay, well, do you want to include that in your Committee's recommendation, Phil?

22  
23 Councilmember Andrews,

24 I would say without objection.

25  
26 Council President Leventhal,

27 Without objection it's agreed to. Ms. Praisner?

28  
29 Councilmember Praisner,

30 I just noted in the recommendation -- the number 4 on lines 7 through 74, developing  
31 recommendations to improve the coordination effectiveness, et cetera, I don't want to  
32 change the language, but as we have done with boards and committees, this is a --  
33 Council has a function and interaction with lots of folks. I would assume and expect that  
34 we would say, if not legislatively, at least the intent working with the Office of  
35 Intergovernmental Relations whenever there is any interaction outside of this. When  
36 you're developing recommendations and you're advising of courses, I would hope to the  
37 extent there is anything that goes outside of and has some suggestions that input come  
38 from the Office of Intergovernmental Relations. That isn't -- they're not lobbying, so they  
39 don't need that role, per se, but I just want to make sure the group coordinates anything  
40 where they see something external with the Office of Intergovernmental Regulations. I  
41 don't think the language in the bill needs to be changed. I don't think anything  
42 legislatively needs to be changed. I just think, from the intent of the legislation, that

December 6, 2006



1 whenever anybody is looking for information outside of the County or trying to follow  
2 something that they work with our Office of Intergovernmental Relations.

3  
4 Council President Leventhal,  
5 Very good. I think we're ready for a roll call vote on Bill 23-05.

6  
7 Council Clerk,  
8 Mr. Denis.

9  
10 Councilmember Denis,  
11 Yes.

12  
13 Council Clerk,  
14 Ms. Floreen.

15  
16 Councilmember Floreen,  
17 Yes.

18  
19 Council Clerk,  
20 Mr. Subin.

21  
22 Councilmember Subin,  
23 Yes.

24  
25 Council Clerk,  
26 Mr. Silverman.

27  
28 Councilmember Silverman,  
29 Yes.

30  
31 Council Clerk,  
32 Mr. Knapp.

33  
34 Councilmember Knapp,  
35 Yes.

36  
37 Council Clerk,  
38 Mr. Andrews.

39  
40 Councilmember Andrews,  
41 Yes.

December 6, 2006



1 Council Clerk,

2 Ms. Praisner.

4 Councilmember Praisner,

5 Yes.

7 Council Clerk,

8 Mr. Leventhal.

10 Council President Leventhal,

11 Yes. All right...

13 Councilmember Praisner,

14 We're back on track.

16 Council President Leventhal,

17 Thank you very much. Thank you Sheriff and Dudley and everyone. Next up is  
18 expedited Bill 34-05, South Germantown Recreational Park - Tennis Center - Lease  
19 Amendments. Bill Mooney is here from the Planning Board, and he's going to explain  
20 why we need to do this, and he needs to introduce himself.

22 Bill Mooney,

23 Good morning. Bill Mooney from the Park and Planning Commission.

25 Multiple Speakers,

26 [INAUDIBLE]

28 Councilmember Praisner,

29 That was a comment by the tennis caucus Chair.

31 Bill Mooney,

32 Oh, I see. This amendment to the lease comes at a time when the partner is prepared  
33 to move forward, and there are some changes that they needed partly to get their  
34 financing, partly to reflect additional work that they have been doing over the last  
35 several years in terms of design and market analysis to have a facility that they believe  
36 will be successful. Very quickly, the lease addresses several issues. One is the building  
37 size has been adjusted from 80,000 square feet to 110,000. This reflects most  
38 significantly the change from some tennis courts to a significant component of  
39 cardiovascular exercise facilities, which they feel is responsive to the market. The  
40 number of indoor courts decreases from seven to four. The 3 outdoor courts which were  
41 originally envisioned but were not included in the original lease are now included in the  
42 lease in addition to the ability to cover them in the future should they feel that the market

December 6, 2006



1 requires additional courts. The product manager changes because, in the original lease  
2 at the time when there was a different -- they were already under construction on the  
3 rest of the park. We had -- there was an agreement they would use that project  
4 manager, but now they'll be working on their own. They're the last facility up at the park.  
5 We have allowed them to use an investment group rather than a bank in terms of their  
6 mortgage. We put in a provision for extraordinary returns. And this is in view of -- they're  
7 going to have more participants. They have a larger building. We looked at whether we  
8 should just increase the base rent. Our return on our million dollar share of their  
9 investment is already 7.5 to 20% depending on the performance of the building, so we  
10 felt what was good is, if we're taking some of the risks on the project, that we should risk  
11 -- we should participate in the upside. So if they have a significant return...

12  
13 Council President Leventhal,  
14 We like that.

15  
16 Bill Mooney,  
17 ...on their investment -- yes, we like the upside -- that we should participate in that when  
18 we get to certain points in the return. We also have incorporated into the lease the  
19 results -- in the original negotiation on this project, it was agreed that there would be a  
20 pad-ready site provided. It was an undefined term at the time. We now know what that  
21 means, and so it was a commitment that was always there, and we've agreed that we  
22 will provide the cash that we have left in the project and they will build the pad-ready  
23 site, and we will waive rent for about four and a half years in order to compensate them  
24 for that. That was one point that OMB said that we were giving up some representation,  
25 but this is actually a commitment that was made a number of years ago by the folks who  
26 were involved in the project at the time. We're just fulfilling that commitment. And then  
27 we have a series of financial performance requirements where they have to provide us  
28 reports. Those are the changes in the lease. We recommend this to you. This project,  
29 we believe, is ready to go. Their financing is in place, and they believe the market is  
30 ripe.

31  
32 Council President Leventhal,  
33 Mr. Knapp?

34  
35 Councilmember Knapp,  
36 Thank you, Mr. President. Bill, I just wanted to -- back, I guess, on Circle 105, there's a  
37 reference to having conducted new market research, and the last I'd received -- I  
38 believe it was from the partner -- was research they'd done back in, like, the year 2000  
39 or 1999. The question I would have is -- I know it's expedited -- could we possibly bring -  
40 - first of all, do you actually have a copy of their new market research?

41  
42 Bill Mooney,

December 6, 2006



1 No. I do not have a copy of that. This is -- they -- That was required by their new  
2 financing partner, and their look at the market which was done by Potomac -- the  
3 Potomac Group was to determine whether tennis should still be their primary focus or if  
4 they should add the cardiovascular, and the result of that was that they wanted to  
5 change the facility. I can get that provided to you. In our discussions with them, we were  
6 satisfied that -- and particularly since they're taking the vast majority of the risks here.

7  
8 Councilmember Knapp,

9 I know they are. My only concern is that there have been lots of conversations about  
10 Soccerplex. We've got the new pool coming in line. I think this actually is a tremendous  
11 facility. What I don't want to have happen, though, and this is a concern I expressed to  
12 them a year or so ago, is I don't want, because of lack of clarity or lack of good  
13 understanding about the market, that we end up with kind of the capstone facility not  
14 fully meeting the needs of the community and then calling into question all the other  
15 great programs that are there because people don't differentiate nor distinguish  
16 between what the Soccerplex is and the soccer facility relative to the pool, relative to the  
17 splash park, or anything else, it's all Soccerplex. And I think everything's moving in the  
18 right direction, I just don't want to end up... Even if they are taking the risk, I think it  
19 reflects on the entire facility. Is this imperative that this necessarily get passed today?  
20 Could we bring it back next week?

21  
22 Bill Mooney,

23 I think it certainly could as long as it comes back next week. They're ready to move  
24 forward on this. They're actually -- they have some money at risk already. They've been  
25 working on their redesign.

26  
27 Councilmember Knapp,

28 I don't want to delay unnecessarily. I just would like to get a copy of whatever the new  
29 market research just to get a sense of how they're making the decisions 'cause I think  
30 this is going to be critical for the community. I just don't know how they're making the  
31 decision, if that's possible.

32  
33 Bill Mooney,

34 We can do one of two things. We can either get the market research for you or have Mr.  
35 Tighe come and speak to the Council.

36  
37 Council President Leventhal,  
38 Mr. Silverman?

39  
40 Councilmember Silverman,

41 thank you Mr. President. What I'd suggest -- and we wanted to expedite this because of  
42 the timing and our recess scenario. That's why -- and the fact that PHED is kind of busy



December 6, 2006



1 with other things. That's why we didn't take it to PHED. If Councilmembers would feel  
2 more familiar with laying this over to next week...

3  
4 Councilmember Knapp,  
5 That's all I want to do.

6  
7 Councilmember Silverman,  
8 Okay, fine, then we can see if we can get information like that. I know there were other  
9 lights on, so there may be requests for other information between now and then.

10  
11 Council President Leventhal,  
12 Okay, Ms. Floreen, is it something we need to address now? We're going to take it up in  
13 a week. Go ahead, Ms. Floreen.

14  
15 Councilmember Floreen,  
16 Thank you. We didn't discuss it in Committee, so I have just a couple of basic  
17 comments or questions, which is what is the financial commitment of the County with  
18 respect to this and what is its exposure?

19  
20 Bill Mooney,  
21 The financial commitment, in our estimate, is about a million dollars, and that goes to all  
22 the infrastructure that is in place already in the park and sort of prorating that to the  
23 acreage. And then we looked at the pad-ready costs. The number is in here. It's about  
24 \$400 and some thousand. And, again, that was an agreement that was made some  
25 time ago that we would provide a pad-ready site. The facility makes use of the parking,  
26 the ring road, all the various sewer and water lines that are already in the park. So we  
27 prorated that when we came up with our sense that we had about a million dollars  
28 invested to make this project go. Their commitment is between 18 and \$20 million in  
29 order to build and outfit and get the facility online.

30  
31 Councilmember Floreen,  
32 Is their commitment to maintain it and staff it?

33  
34 Bill Mooney,  
35 Yes.

36  
37 Councilmember Floreen,  
38 And does the County have any supervisory function or relationship with them -- with the  
39 tenant -- with respect to the management of the facility, public access, and the like?

40  
41 Bill Mooney,

December 6, 2006



1 Yes. We -- in terms of the public access, we require that there always be tennis  
2 opportunities for walk-in use at the rates which are comparable to our other tennis  
3 facilities. It will be a membership operation for other than that. In terms of oversight, we  
4 will be receiving various reports which are listed in the document on at annual basis.  
5 And then, as I stated, we get a percentage of gross and well as a percentage of  
6 extraordinary return in terms of financial.

7  
8 Councilmember Floreen,

9 But in terms of public access, presumably it's been vetted by someone in terms of how  
10 that compares with access in other facilities on public land.

11  
12 Bill Mooney,

13 It's, like I say, a membership organization, but it is open to all members of the  
14 community to join.

15  
16 Councilmember Floreen,

17 Well, are there mechanisms -- if there is a separate agreement that goes to this or if you  
18 can direct us to the terms and conditions that address these issues, I think -- you know -  
19 - we've looked at -- observed the situation with the Soccerplex evolve, and there are of  
20 course changing relationships, changing expectations, and changing financial needs  
21 that occur over time, and I think it's really incumbent on us to make sure that from the  
22 outset that we're satisfied with the relationships that are spelled out. You're saying that  
23 the only relationship is the review of an annual report?

24  
25 Bill Mooney,

26 Well, in terms of their reporting to us. Well, it's not just one report. There are multiple --  
27 let me go back to that provision quickly. We'll get profit and loss statements every six  
28 months, annual tax returns, and the year end annual financial statements, which will  
29 include all their footnote disclosures and every other year they have to be audited  
30 returns.

31  
32 Councilmember Floreen,

33 And that will be reviewed by whom?

34  
35 Bill Mooney,

36 By [Patty Barney], our Secretary/Treasurer.

37  
38 Councilmember Floreen,

39 But not by the Planning Board?

40  
41 Bill Mooney,

42 They will receive the report as well, yes.



December 6, 2006

Councilmember Floreen,

Are there any elements in this agreement that will assure that membership in this club will be manageable by the Committee in terms of price ranges and the like? Are there controls in this agreement that will ensure that it will be accessible to as many folks as we would like to have this accessible to apart from -- I'm sure Mr. Andrews has a special relationship, being our team player here, but in terms of families of moderate income, what kinds of mechanisms are built into this to ensure that all households will have some kind of access to this? I'll have Mr. Tighe speak to that more next week. But their market work looked at the demographics and the economics of the Germantown area, and so I'm confident that they're targeting this to that population and feel that they will be able to get the membership that they need from them. Well, membership that they need can be exclusive -- an exclusive level. The question is...

Unidentified,  
Understood.

Councilmember Floreen,

...what about the membership that we would like to see as well. Are there terms and conditions in our agreement that will make sure that folks are not priced out of access to this?

Bill Mooney,

I -- we'll talk to that next week, 'cause I don't know that I can -- he can speak to the pricing and how it fits to the market.

Councilmember Floreen,

Okay. Okay. Well, let's do it then. Thank you very much.

Council President Leventhal,

Okay, thank you, Ms. Floreen. I don't see any other lights on this one. We will take up expedited Bill 34-05 next week. Expedited Bill 27-05, Forest Conservation - Penalties. Ms. Floreen.

Councilmember Floreen,

Thank you, Mr. President, hopefully we can do this one today. I would like to give special thanks to the C & O Canal Stewardship Task Force which has played a really important role in helping the T&E Committee massage the legislation that we have in front of us. In particular, we had Kevin Brandt and Bill Spinrad from the National Park Service, Honorable Robb Garagiola, our own Howie Denis, Rose Krasnow and Kathleen Nelson from the Park and Planning Commission, Laura Miller from the County Department of the Environment, Jim Jamieson from the Audubon Naturalist Society,



December 6, 2006

1 Matt Logan and Meredith Lathbury from the Potomac Conservancy, our own Ginny  
2 Barnes from West Montgomery, Kate Anderson from the community, Dan Nees from  
3 the Environmental Finance Center from the University of Maryland, and Jean Kleinman,  
4 Karen McManus] Sumitra Siram from Congressman Van Hollen's staff who've been  
5 very engaged in all of this. The T&E Committee recommendation is to throw the book  
6 basically at anyone who violates the Forest Conservation Law. If you'll note, there is a  
7 special provision in here that authorizes the Council to revoke NFL franchises under  
8 appropriate circumstances.

9  
10 Councilmember Praisner,  
11 And Six Flags?

12  
13 Councilmember Floreen,  
14 Yes.

15  
16 Councilmember Praisner,  
17 It becomes "Five Flags."

18 Councilmember Floreen,  
19 Yeah. Exactly. Exactly. Actually not. But what we've done basically is adopt all the  
20 recommendations that came up from the task force, and it's in really two categories.  
21 One is in beefing up the legislation that was introduced and also in terms of preparing a  
22 resolution where we're setting the penalties and fees for violation of the Forest  
23 Conservation Law. Basically what we've done here is to make it clear that the maximum  
24 -- we've proposed a range of penalties -- increasing the penalties so that, by resolution  
25 which we're introducing, the civil penalty can be set as high as \$9 a square foot. I think  
26 it's important that the effort here is to recommend and establish a high level of deterrent  
27 effect by these changes to make it very clear that we mean what we say about our  
28 conservation easements and about our commitment to the environment and our  
29 expectation that folks who acquire property subject to these easements will be -- and  
30 requirements will indeed be held to a very high level of accountability. So turning to the  
31 specifics, as I said, the maximum penalty has been repealed by the proposed legislation  
32 only to be set by resolution. It's important to note that the maximum civil penalty can be  
33 combined with other sanctions so that a range of penalties could be applied. In addition,  
34 we recommend that we set a maximum fee in the resolution for a fee that can be  
35 charged in lieu of reforestation requirements, up to and basically triple that. We clarified  
36 that a conservation easement value can be assessed by the Planning Board as an  
37 element of the administrative civil penalty. In the resolution, we recommend that the  
38 maximum penalty and "in lieu" fee can be adjusted biannually by any increase in the  
39 consumer price index. We added some additional criteria based on the ability to pay.  
40 That should be assessed in the determination of penalties so that folks who were better  
41 positioned to economically to assume that responsibility will be appropriately tasked  
42 with responsibility. And finally we made it very clear that criminal penalties do indeed

December 6, 2006



1 apply in this situation. It was not entirely clear from the existing legislation that that was  
2 the case, and we made it very clear. I'd just note that, under the criminal violation  
3 penalties, the maximum fine, as in the civil situation, would be \$1,000 with a maximum  
4 jail term of up to six months. So those are the proposed -- the changes in the legislation  
5 that we recommend. I think there were some questions from the community, Mr. Faden,  
6 as to whether we had fully incorporated all the recommendations of the Stewardship  
7 Task Force. You told me that you think that is the case, but if you could speak to that,  
8 we had -- as with all the items on today's agenda, we've had communications as of this  
9 morning. So I wanted to get that clarified on the record.

10  
11 Mike Faden,

12 Yes, Madam Chairman, we did speak last night to a couple members of the task force  
13 and discussed this. We do think that the Committee recommendations reflect the task  
14 force's recommendations. If there is any question, I know that the Planning Board does  
15 plan to present some other amendments to the Forest Conservation Law within the next  
16 couple months -- substantive amendments -- And if there's any clarification needed on  
17 the legislation, I think all parties agree that those amendments could be an appropriate  
18 vehicle to discuss these issues also.

19  
20 Councilmember Floreen,

21 Likewise the resolution that's introduced today would be acted upon next week. So if  
22 there's some additional clarification that needs to be added there, we'll be well-  
23 positioned to do that.

24  
25 Mike Faden,

26 Yes.

27  
28 Councilmember Floreen,

29 So that's the Committee recommendation.

30  
31 Council President Leventhal,

32 Okay, Madam Chair, I just want to tell you, last week when we took this up in  
33 Committee, I was ready to vote for the stiffest possible penalties, but then the Redskins  
34 beat St. Louis on Sunday and I'm feeling much more relaxed and benign today. I'm not  
35 sure I'm feeling quite as aggressive as I was.

36  
37 Councilmember Floreen,

38 I know that's true, Mr. Leventhal, but we want to keep that in our pocket as the  
39 appropriate stick that indeed we should exercise in matters of this nature.

40  
41 Council President Leventhal,

42 Mr. Denis?

December 6, 2006



Councilmember Denis,

Thank you, Mr. President. I also want to thank Mr. Silverman for being the original sponsor of the bill, and with six sponsors -- an original sponsor and five cosponsors -- this is about as close to a must pass bill as you can get and an excellent bill to amend, and I think it's been improved by the amendments but I would like to make some comments, and I thank the Chair for her excellent explanation, and my comments are in addition and in sync with what was said. But I just want to make some other points as well and then maybe ask staff for some further clarification. This bill which I am co-sponsoring lists the limits on the penalties that are stated in the current law for illegally cutting down trees. It allows the penalties to be much higher than they currently are. And has been stated there's a resolution that's going to be introduced as the next item on our agenda, and that resolution, which is basically part of this bill before us, is expected to be voted on next week. It's on our tentative agenda. In response to a particular incident last year near Swains Lock Congressman Chris Van Hollen appointed an advisory body formerly known as the C & O Canal Stewardship Task Force, otherwise known as the Van Hollen Task Force. It has a particular interest in this bill since much of what we are doing relates to Forest Conservation. And I thank the Chair for listing the members of the task force and I'm very proud and pleased to have been asked to serve, and I think Jennifer Hughes of my own staff for following this so closely. The task force at the Committee work session recommended amendments that were adopted unanimously by the Committee. The task force recommendations were as follows as presented to the Committee, and presumably adopted and reflected in the bill that is before us either this way or in the resolution that we'll be voting on next week: Number One: to triple the current administrative fee from 30 cents per square foot to 90 cents per square foot, and require an additional payment equivalent to the fair market value of placing a conservation easement on the restored land. Two: to increase the maximum administrative civil penalty from \$3 per square foot to \$9 per square foot and again require an additional payment equivalent to the fair market value of placing a conservation easement on the restored land. Three: expand the required considerations in determining the amount of civil penalty to include factors such as ability to pay and increases in the property value due to the violation. Four: and most importantly, the task force also recommended the institution of criminal penalties of up to six months in jail and \$1,000 fine. It is important to have a range of penalties that would deter. Criminal charges and penalties could serve as significant deterrents. The task force inclusion of criminal penalties is absolutely integral to our recommendations. A law without a meaningful sanction is not a law. I thank the Chair, Ms. Floreen, and the Councilmembers, President Leventhal and immediate Past President Tom Perez for welcoming me to the Transportation Committee session and for adopting these recommendations. I am fully supportive of the recommendations and hope that the Council will adopt these amendments. These amendments provide realistic civil and criminal penalties. This approach ensures that all have some meaningful deterrent to

December 6, 2006



1 willfully violating our Forest Conservation Laws. My question is this: Does the bill reflect  
2 the task force recommendations?

3  
4 Mike Faden,  
5 Staff believes that it does.

6  
7 Councilmember Denis,  
8 Okay, do we -- we have representatives of the Van Hollen Task Force here. Is that  
9 acknowledged or is it disagreed with or is it accepted? Joan Kleinman of Congressman  
10 Van Hollen's staff or anyone else that's here?

11  
12 Jean Kleinman,  
13 Thank you, Mr. Denis, and congratulations Mr. Leventhal and Ms. Praisner. The bill as  
14 drafted is okay with our -- it's consistent with our recommendations. We have concerns  
15 with the resolution.

16  
17 Councilmember Denis,  
18 Okay.

19  
20 Jean Kleinman,  
21 So, is the procedure that between now and next week we could...

22  
23 Council President Leventhal,  
24 We have time to work on the resolution with you and will be happy to do that.

25  
26 Councilmember Denis,  
27 So any amendments that might have to be made could be made to the resolution. And I  
28 just want to put on the record, since the Committee unanimously adopted the  
29 recommendations, that I think it's clear and stating them here -- if there's any  
30 disagreement or objection to what I've said, this might be the time to put it on the record,  
31 that we would have reflected in the resolution the task force recommendations as I've  
32 just stated them. Okay. Is that -- sure.

33  
34 Council President Leventhal,  
35 Please identify -- yeah.

36  
37 Meredith Lathbury,  
38 I'm Meredith Lathbury. I'm General Council for the Potomac Conservancy. And thank  
39 you again for your leadership on this issue, we very much appreciate it. I do have one  
40 question, and Mr. Faden and I spoke about this last night, but I still have this question,  
41 I'm afraid, which has to do with the setting of "in lieu" fees. The task force had  
42 recommended that the fair market value of the conservation easement be also

December 6, 2006



1 considered when looking at the fee "in lieu" amounts, and it's not added here in this  
2 Expedited Bill Number 27-05, and so we were just wondering -- I see in the comments  
3 that it's stated that Council staff wasn't sure whether the "in lieu" fee is intended to serve  
4 the same function, and whether it would be authorized by the State Forest Conservation  
5 Law. I did take a look at the law, and it doesn't appear that there's any reason why that  
6 couldn't be included with the "in lieu" fee.

7  
8 Mike Faden,

9 We did -- as we discussed last night and I also discussed somewhat extensively with  
10 Ms. Conlin of the Planning staff, who used to, as you all know, run the Forest  
11 Conservation program, I did not interpret the task force recommendation to add an  
12 easement value provision to the "in lieu" fee. That would be a major change, which may  
13 be within the scope of this bill but would certainly, as a policy matter, I think would elicit  
14 much more comments from the applicants, developers, who pay the "in lieu" fees. So,  
15 as I say, I did not understand either the task force recommendation or the Committee  
16 recommendation to encompass that. Our own recommendation would be, if you want to  
17 consider that, we would feel much more comfortable doing that in the follow-on bill,  
18 because that goes somewhat beyond the scope of the enforcement provisions that this  
19 bill focuses on.

20  
21 Councilmember Denis,

22 Is that something that would be appropriate for the bill or for the resolution?

23  
24 Mike Faden,

25 That would need to be done in the bill.

26  
27 Councilmember Denis,

28 Was this not adopted by the Committee?

29  
30 Councilmember Floreen,

31 Well, we certainly adopted the -- it was our intent to adopt the range of  
32 recommendations from the task force. There is an "in lieu" of provision in the resolution,  
33 and I think...

34  
35 Mike Faden,

36 Right. For the amount. That's correct.

37  
38 Councilmember Floreen,

39 ...for the amount. So the question really is is the additional language that would need to  
40 be added in the law itself to clarify that? Because the administrative penalty part in  
41 Circle 20 I see includes language that addresses the fair market value issue which was  
42 of equal concern.





December 6, 2006

1  
2 Mike Faden,

3 Yes, and that's the way we understood it on Circle 20 and in the bill on Circle 2A or at  
4 the bottom, lines 48 through 55, does include the easement value provision as part of  
5 the administrative penalty. That itself, as Ms. Lathbury correctly quoted the memo,  
6 made us a little nervous. Extending that to -- the easement value provision to the "in  
7 lieu" fee itself makes us quite a bit more nervous, both substantively and in terms of the  
8 scope of the bill.

9  
10 Councilmember Denis,

11 I see Ginny Barnes has joined us at the witness table, Mr. President, could she...

12  
13 Council President Leventhal,  
14 Please, Ginny, go ahead.

15  
16 Ginny Barnes,

17 I'm Ginny Barnes. I'm on the task force as a citizen. I think my colleagues would  
18 probably agree that our concern is to get this bill passed, not to hold it up.

19  
20 Councilmember Floreen,  
21 Right.

22  
23 Ginny Barnes,

24 And if Mr. Faden is nervous about the fee "in lieu" language, vis-à-vis the conservation  
25 easement part, I think that is something that would have to be taken up in a more  
26 substantive amendment process of the Forest Conservation Law. Wouldn't you agree  
27 that that would be -- we would rather see the bill passed than have it held up for that  
28 language.

29  
30 Meredith Lathbury,

31 I certainly would agree with that, although I would just like to note for the record that the  
32 task force recommendations were very clear.

33  
34 Ginny Barnes,  
35 Yes.

36  
37 Meredith Lathbury,

38 They state in addition to any fee "in lieu" or civil penalty imposed and then it takes about  
39 the fair market value of these. So it certainly was the intent of the task force to include  
40 that.

41  
42 Councilmember Denis,

December 6, 2006



1 So that's very helpful. So we can proceed if others are in agreement.

2  
3 Councilmember Floreen,

4 Well, let me just ask you would the solution be retaining Section 2 on Circle 2B?

5  
6 Mike Faden,

7 Can you tell me again which lines you're focusing on?

8  
9 Councilmember Floreen,

10 I'm looking at lines 64 through 67. Of course the numbers would have to be changed.

11  
12 Mike Faden,

13 No. That really does not. That's the current law which just caps the fee -- the "in lieu" fee  
14 -- at 30 cents. And otherwise the current law lets you set the "in lieu" fee by resolution.  
15 But neither the current law nor the resolution go to this issue of conservation easement  
16 value attached to the "in lieu" fee.

17  
18 Councilmember Floreen,

19 But the conservation easement language is addressed in lines 48 through 55.

20  
21 Mike Faden,

22 It is in the context of the administrative penalty only. Attaching it to the "in lieu" would  
23 affect a great many more cases. It would affect people who are applicants rather than  
24 violators.

25  
26 Councilmember Floreen,

27 Okay, well, I think this is going to require a little bit more further conversation then. I  
28 don't think there's any intention to not proceed. I think we may need to straighten out  
29 some of the language.

30  
31 Council President Leventhal,

32 Mr. Subin?

33  
34 Councilmember Subin,

35 Thank you, Mr. President. I think it's clear we're not -- this language is not going to get  
36 in today. It would cause too many problems. What I would request is that, as Ms.  
37 Barnes has suggested, we move on, pass the bill as the Committee has recommended.  
38 And Mr. Faden, if you could begin to draft a new bill that includes all of the other  
39 provisions that were not put in that maybe could have been put in that, that would be  
40 great.

41  
42 Councilmember Denis,



December 6, 2006

1 I'll join Mr. Subin in that request.

2  
3 Council President Leventhal,  
4 Okay. Several other comments here. Mr. Silverman?

5  
6 Councilmember Silverman,  
7 Thank you, Mr. President. I just want to thank Congressman Van Hollen, and Jean  
8 Kleinman of course, and all of the folks who participated in the task force. I think he's  
9 shown great leadership in getting out on this issue right away. We've had a pretty good  
10 Forest Conservation Law for a long time. I think those of us who knew it was around  
11 weren't aware that it lacked teeth, and so I think this is -- what sounds like the beginning  
12 of reviewing our Forest Conservation Law but, but today we're at least going to take a  
13 major step forward inputting teeth in a law that is good for Montgomery County. I would  
14 just say to the members of the task force that, while the bill only deals with the narrow  
15 issue of enforcement, if there are recommendations for other changes to the Forest  
16 Conservation Law, it would be appropriate to start having a dialogue about those. This  
17 was narrowly focused on trying to get a remedy to a very outrageous situation in which -  
18 - which highlighted the lack of teeth in the Forest Conservation Law. So I would certainly  
19 look forward to and I know my colleagues would to suggest the changes in the  
20 substantive nature of the Forest Conservation Law, and you can add me as a sponsor  
21 of this next round of legislation that's going to go on. But I thank you very much for your  
22 hard work.

23  
24 Council President Leventhal,  
25 Mr. Andrews?

26  
27 Councilmember Andrews,  
28 Thank you. Well, this bill does address a serious problem, and the other problem is that,  
29 as you walk up the C & O Canal, you can clearly see the statue of Paul Bunyan in the  
30 yard as well. So this is a bill that will address this in a permanent way, which is  
31 important, and I also want to thank Congressman Chris Van Hollen's office for all the  
32 good work that they did on this over the past year or so. They got the community very  
33 involved, and the Potomac Conservancy has been extremely active as well, and the  
34 Potomac is the national river. It's important that we are -- we have a unique situation  
35 here with the C & O Canal connecting an urban area to the entire rest of the western  
36 part of the state, in effect. It's a unique national park, a treasure, and it is Montgomery  
37 County's only national park as well. So thank you for the leadership that you've taken in  
38 that. And I'm pleased to vote for this and hope that it will actually take effect as we adopt  
39 it and be implemented. It's an expedited bill which will assure that there isn't more  
40 damage that occurs in the near future. So thank you for the leadership you have.

41  
42 Council President Leventhal,

December 6, 2006



1 Thank you, Mr. Andrews. And I want to associate myself with your comments. We know  
2 the circumstances that led to the introduction of this bill, and so I've made some jokes  
3 about how the team was standing from week to week, but this is a very, very serious  
4 matter, and it's not just a serious violation of the Forest Conservation Act to intrude  
5 upon the beauty and the environmental sensitivity of our Potomac River watershed, but  
6 it's really a violation of good manners. It's a violation of community responsibility. We've  
7 done a much, much better job on the Maryland side of preserving the Potomac River  
8 Watershed and the view shed than on the other side of the river, and the primary reason  
9 for that is the C & O Canal National Historical Park, and so it was very appropriate that  
10 Congressman Van Hollen step in. It has always fallen to the Eighth District  
11 representative in Congress to look out for the interests of that park. It's a great legacy  
12 that's been passed down to us by Justice Douglas and that we've enjoyed here in this  
13 area for most of the 20th century, and we never want to see it despoiled or harmed in  
14 the 21st century. I really do congratulate Congressman Van Hollen and the members  
15 of his office and all of the community members who are here. I am very happy to vote  
16 for this bill. And Ms. Floreen had another comment.

17  
18 Councilmember Floreen,  
19 No. No.

20  
21 Council President Leventhal,  
22 Oh, you want to turn your light off? Okay. So we're ready for a roll call.

23  
24 Council Clerk,  
25 Mr. Denis. Yes. Ms. Floreen. Yes? Mr. Subin. Yes. Mr. Silverman. Yes? Mr. Knapp.  
26 Yes. Mr. Andrews. Yes. Mr. Perez. Yes. Ms. Praisner. Yes. Mr. Leventhal.

27  
28 Council President Leventhal,  
29 Yes. Bill passes unanimously. Next up is introduction of the resolution. Are we going to  
30 hold off on that or give it more time? We'll introduce it now and work on it over the  
31 course of the week? Very good. So we have introduction of the resolution to set certain  
32 penalty and fee amounts under the Forest Conservation Law, sponsored by the T&E  
33 Committee, and that is introduced.

34  
35 Mike Faden,  
36 Mr. President, just one detail on the resolution, we neglected to include a provision that  
37 says it would take effect when the bill takes effect. I understand that's the intent, so we'll  
38 put that in.

39  
40 Council President Leventhal,  
41 And Congressman Van Hollen's office had some other issues they'll work out with staff  
42 so when we take this up next week presumably it will come to us with amendments.



December 6, 2006

1  
2 Councilmember Denis,  
3 I'd like to get in as a sponsor of the -- cosponsor of the resolution if I could.

4  
5 Council President Leventhal,  
6 And Mr. Denis will be added as a co-sponsor. District Council session, we have  
7 introduction of Zoning Text Amendment 05-21, Corporate Training Center CP Zone. We  
8 need to vote on a resolution to establish a public hearing. The motion is made and  
9 seconded. All those in favor signify by raising your hands. Next item we have action on  
10 a resolution to extend time for Council action on the Woodmont Triangle Amendment to  
11 the Bethesda CBD sector plan. We have a motion and a second. Those in favor of  
12 extending time on Woodmont Triangle Amendment until February 18th will signify by  
13 raising their hands. Motion passes unanimously among those present. Next item, we  
14 have resolution to extend time for Council action -- we're really good at extending time  
15 around here...

16  
17 Councilmember Praisner,  
18 Second.

19  
20 Council President Leventhal,  
21 ...Council action on the Shady Grove Sector Plan. Motion is made and seconded those  
22 in favor will signify by raising their hands. The resolution passes. We now have action  
23 on the Amendment to the Master Plan for Historic Preservation regarding Moreland and  
24 Sycamore Store. This came to us -- we have a Committee recommendation on this  
25 one?

26  
27 Councilmember Praisner,  
28 No. I don't believe it went to the PHED Committee. No. So I'll move approval.

29  
30 Council President Leventhal,  
31 This is consistent with the recommendation of the Historic Preservation Commission. So  
32 the motion is made and seconded and those in favor will signify by raising their hands.  
33 Okay. The amendment to the master plan carries unanimously among those present.

34  
35 Unidentified,  
36 Oh, okay.

37  
38 Council President Leventhal,  
39 Next is Zoning Text Amendment 05-10 Telecommunication Facility Amendments. We  
40 have a recommendation from the MFP Committee. Ms. Praisner?

41  
42 Councilmember Praisner,

December 6, 2006



1 Yes. There may be some modifications, and I know -- that did not go through the  
2 Committee which we will discuss today as well. Ms. Floreen talked to me about one that  
3 I think is just a technical change, editorial change. I'm not sure if Mr. Knapp has any  
4 amendments or not. But the Zoning Text Amendment on Telecommunications Facility  
5 Amendments deals with and is a companion to the legislation that we dealt with earlier  
6 today, and what it is an attempt to do is to cleanup and to some extent structure in other  
7 ways some of the telecommunications issues which we're facing. The Committee  
8 recommends amendments that I'd like to highlight that are on the first page and then go  
9 through the packet in more detail. The Committee has revised the definition of "tower" to  
10 clarify that support structures are not always lattice type, the way it had been introduced  
11 it left the impression that lattice type antennas were the only kind. The amendments to  
12 the amateur radio facility part of the legislation which had been part of the Zoning Text  
13 Amendment modifies the height to 65 feet and allows additional height by special  
14 exception. I would comment that I think, from a special exception process, we're looking  
15 and we would be recommending the Board of Appeals to set a low fee on this issue.  
16 And that height, the standard is a demonstration that the additional height is necessary  
17 to comply with the minimum requirements established by the Federal Communications  
18 Commission. We had originally talked about a setback from the property line one foot  
19 for every height. I received some communiqué from the amateur radio enthusiasts and  
20 participants who were most concerned about the ability, especially down county, to be  
21 able to meet that standard in the small zone areas especially, and in response to that --  
22 and I believe my colleagues are okay -- what I'm proposing is that we eliminate the  
23 heights -- the setback height requirements for amateur radio facilities. We've also  
24 established the height for a radio and television tower at 275 feet. That is the average  
25 height of existing towers in the County. And I'll go through the language when we get to  
26 it, but basically the way in which we're also responding to that is, is if there is a need for  
27 additional height in order to comply with the requirements of the FCC, then that height  
28 can, if proven, can be accommodated. We also are clarifying that a television antenna  
29 or aerial is not a television tower or station. That's in essence a technical clarification.  
30 The Committee also discussed not requiring a special exception for additional height  
31 above 275 feet if a radio or television antenna is co-located on an existing tower. Our  
32 policy is to encourage co-location whether it is cell towers as we started originally or any  
33 other telecommunications facility. The more co-location is allowed, the fewer the towers  
34 are needed. It makes common sense to encourage co-location. You can see the  
35 requirement or the language there at the lower part of page 1. In essence, in  
36 background, what I'm saying its the intent of the legislation Zoning Text Amendment  
37 was to clarify ambiguous terms used in the past in our telecommunications regulations  
38 and law. And as I said, we are revising land use tables and standards. We are  
39 modifying the definition of tower in order to accommodate lattice type issues or the fact  
40 that not all antenna structures are of a lattice structure. We are fixing the amateur radio  
41 facility. The Planning Board had some concerns about some of the height, and we have  
42 taken some of the Planning Board recommendations, but have modified it. We thought

December 6, 2006



1 the 100 feet was excessive and recommended a "by right" height limit again at 65 feet,  
2 and that additional height be allowed by special exception if it can be demonstrated that  
3 it is needed to engage in amateur radio communications under an FCC license. And as  
4 I said, we eliminated -- or the County Attorney, Council staff, and I recommend  
5 eliminating the requirement as far as the setback. That was the main concern that I  
6 heard from the amateur radio participants. We're also defining and regulating radio and  
7 television broadcast stations and towers. The Committee recommended limiting, as I  
8 said, tower height to 275 feet, which is the average height of towers in the County  
9 unless it can be demonstrated that the additional height is necessary to comply with the  
10 minimum requirements established by the FCC. And through our technical staff in the  
11 Tower Committee and through the group and the process, that's the way in which -- as  
12 well as obviously with any documentation that might arrive as far as the license is  
13 concerned with the FCC, we would be able to regulate or to monitor that issue. We did  
14 hear a great deal from the residents of Damascus who do not want towers in the rural  
15 RDT zone. The Committee, in discussing this, did not believe that we could eliminate --  
16 should eliminate radio and television towers from the RDT zone. We have high  
17 electricity towers. We also have public safety issues in towers. We have cell phone  
18 towers and our residents of the Ag area need to have the same kind of access from a  
19 public safety perspective as other residents of the County, and the regulations that  
20 we've put in place, we think minimize the impacts but are equitable from that  
21 perspective. There's, on page 4, some of the information about the numbers of towers  
22 for some of the TV and radio stations in the County and the heights that are there. We  
23 had a discussion with technical staff that relate to the issues of how licenses are given  
24 and how one calculates the need given frequency and requirements for broadcasting  
25 that I think provided an overview for us that led to the Committee's recommendation that  
26 the ZTA be amended to provide that heights above 275 feet be allowed by special  
27 exception if it can be demonstrated that the additional height is necessary to comply  
28 with the minimum requirements established by the FCC. And there is language -- again  
29 staff provided the language that we asked them to about co-location. Planning Board  
30 had recommended other language and definitions that we felt weren't necessary as we  
31 went through the Committee conversations. I think we did want this to apply -- there's no  
32 reference to the comment -- but I thought we wanted it to apply to any application, so it  
33 would apply to anything that has not been constructed to date. So it will have to modify.

34  
35 Ralph Wilson,

36 The way it is drafted now, it would not apply to any application that's been to a public  
37 hearing. If it hadn't been to a public hearing, the new standards would apply.

38  
39 Councilmember Praisner,

40 Okay. I thought we were talking about it not applying for anything that had not been  
41 constructed as yet. I don't know about public hearing issues.

42

December 6, 2006



1 Ralph Wilson,

2 That's what we had in as introduced. That is an alternative that I think we didn't discuss  
3 in great detail with the Committee.

4  
5 Councilmember Praisner,

6 Our interest was in having it -- make it clear that it applies to any application, so that it's  
7 any pending applications. And the Committee agreed with the recommendation from the  
8 County Attorney's office that the ZTA should clarify that a television antenna or aerial is  
9 not a television tower or station. In essence these are technical issues. I had a  
10 conversation with Ms. Floreen who was suggesting some modification in language that  
11 is basically to clear up the wording, and I didn't have any problem with it. I don't know,  
12 Nancy, if you want to say it or you want me to. But the language dealt with the terms -- I  
13 think they appear on Circle 13, 198 through 201. It's three places, but that is one of the  
14 places, and it would modify all three, saying "At the completion of construction and  
15 before the final inspection of the building permit, the applicant must certify to the  
16 Department of Permitting Services as to the height and location of the amateur radio  
17 facility," and it would say the same depending upon the other facilities, not submit  
18 documentation to, but "certify" obviously would be documentation, but it would be -- that  
19 was her recommendation. I consulted with the County Attorney, didn't have a chance to  
20 talk to Council staff about it, left him a voice mail and didn't have a problem -- didn't  
21 have a chance to talk to the other two. I think this would be an opportunity for any of you  
22 who have a concern with that to let me know or whatever. Otherwise, we can use that.  
23 Are you all okay with its use?

24  
25 Ralph Wilson,

26 Nancy, did your language have "broadcast" in there?

27  
28 Councilmember Praisner,

29 No. Just certified. For all three of the requirements where documentation is necessary  
30 to the Department of Permitting Services, the language would say rather than "must  
31 submit documentation," it would say "must certify." Right, Nancy?

32  
33 Councilmember Floreen,

34 Yeah, basically the point of this was certainly to verify. It's just to clarify the certification  
35 language of conformity with the height authorized in the building permit. This being the  
36 year of height both in the down county and the up county, this seemed appropriate to  
37 just tighten it up a tad. That's all it is. It does apply to -- any -- before it could be used to  
38 transmit any broadcast signal.

39  
40 Ralph Wilson,





December 6, 2006

1 Yeah, If I may suggest one technical clarification since it does apply to amateur radio,  
2 TV and radio, and the telecommunication, I think it may be broader if we took out  
3 broadcast, because the telecommunication –

4  
5 Councilmember Praisner,  
6 Okay, any signal?

7  
8 Ralph Wilson,  
9 Yeah. Just say "any signal."

10  
11 Councilmember Praisner,  
12 Okay, I'm fine with that.

13  
14 Councilmember Floreen,  
15 And this would apply...

16  
17 Councilmember Praisner,  
18 In three places.

19  
20 Councilmember Floreen,  
21 ...in three places.

22  
23 Ralph Wilson,  
24 it's Lines 197 to 201, lines 416 to 420, and lines 520 to 524.

25  
26 Councilmember Floreen,  
27 Right.

28  
29 Councilmember Praisner,  
30 And I see -- Nancy, did you have other issues?

31  
32 Councilmember Floreen,  
33 No. If anybody wants a copy of that, I have them.

34  
35 Councilmember Praisner,  
36 Mr. Knapp is the, I think, the other individual who may have some comments about  
37 language.

38  
39 Councilmember Knapp,  
40 Thank you, Madam Chair. I just want to start out by first thanking the community. This  
41 has been a long-standing issue. There are some specifics within the Damascus  
42 community as it relates to a broadcast tower or radio tower that has been under much

December 6, 2006



1 discussion as to its height and where it's located, and I just want to thank the community  
2 under Pam Bussard's leadership and their advocacy in bringing this issue to our  
3 attention. There has been -- there was a fair amount of ambiguity in previous legislation,  
4 which is what brought this back to the floor, and I appreciate Ms. Praisner's leadership  
5 on this issue. There have been a lot of discussion -- I believe there have been three  
6 worksessions -- or two worksessions on this bill, and there are some significant  
7 complexities. And part of the discussion has been at to how much we can regulate in  
8 the first place, because of federal preemption One of the things I try to do -- and I  
9 appreciate the Committee's working with me on this is to at least try to establish what  
10 our zoning requirements are, what our height requirements are, and then to let -- if the  
11 FCC choose to do something different and assert their federal preemption, then we  
12 force the applicant to at least have that FCC direction as opposed to having a debate  
13 internally and us conceding our land use policy at the outset. To that end, I will propose  
14 and -- or at least ask for some discussion on, if you look on Circle 21, Section 3 -- and  
15 this language is different, Ms. Praisner, I've played with it a little bit. So we should  
16 probably have some discussion on it. Section 3, if you go down to line 414 -- and you're  
17 going to like me for this, Cliff. That the additional height is -- change "necessary" to  
18 "required" -- to comply with the minimum requirements established by the rules and  
19 regulations of the FCC. And see -- I would like to at least see what kind of feedback I  
20 get from our folks at the table as to the issues they may have with that.

21  
22 Cliff Royalty,

23 Let me just preface my statement with telling you what the core issue is here that I'm  
24 concerned about, and that's an issue of preemption under the supremacy clause of the  
25 United States Constitution. If the FCC has determined that a tower should be a certain  
26 height, our Zoning Ordinance has to yield to that determination made by the FCC.  
27 That's the core legal issue here. And my advice is to have language in there that at least  
28 acknowledges that we would defer to the FCC determination on height. The suggested  
29 revision, I'm not sure does that, 'cause it seems to require us to interpret the rules and  
30 regulations of the FCC and make our own determination about whether the height's  
31 necessary to comply. I want to defer to the determination made by the FCC itself in  
32 interpreting its rules and regulations. It's a fine distinction but I think it's an important  
33 one. If the FCC says a certain height is the right height, we'll defer to that. I don't think  
34 it's appropriate for us to interpret their rules and regulations, those of the FCC, and  
35 make some independent determination of what the right height is. The FCC has to look  
36 at the frequency and the coverage area and a lot of real technical issues to determine  
37 what height the height should be. It's usually a minimum, I guess. So I'm uncomfortable  
38 with the proposed language for that reason.

39  
40 Ralph Wilson,

41 The existing language?  
42



December 6, 2006

1 Cliff Royalty,  
2 No, no, no. The announced proposal is...

3  
4 Ralph Wilson,  
5 But your opinion is the existing language is adequate?

6  
7 Cliff Royalty,  
8 Yes or any language like that that says we defer to the FCC's determination on height.

9  
10 Councilmember Knapp,  
11 Well, I guess, as I look at this -- I mean, we're still -- they're going to govern by the rules  
12 and regulations that they put forth, and that's how they're going to make a decision  
13 anyway, so I still think it's outlined that we would -- if there's federal preemption, there's  
14 federal preemption. We would lose in any instance. And so I guess, I hear your concern,  
15 but I guess to that extent, I would move making a modification to lines 414, changing  
16 the word "necessary" to "required." And then inserting on line 415, between "the" and  
17 "Federal Communications rules and regulations" "of the Federal Communications  
18 Commission."

19  
20 Councilmember Perez,  
21 Seconded.

22  
23 Council President Leventhal,  
24 Ms. Praisner?

25  
26 Councilmember Praisner,  
27 I have the same kind of discomfort as Mr. Royalty does but for another reason. The  
28 FCC doesn't establish rules and regulations for a license. It grants a license with  
29 requirements. And therefore rules -- I'm not sure what the terms "rules and regulations"  
30 means when the it relates to the Federal Communications Commission. It's a singular  
31 license with an individual, and I don't know what the "rule or regulation" is associated  
32 with that perspective. Rules to me at the FCC are notices for proposed rule making and  
33 regulations relate to -- are broad, not specific to the individual license. That's why I have  
34 problems with the terminology because you're talking about a structure, and you're  
35 talking about the demonstration that that structure is needed based on the requirement  
36 that the FCC has established associated with that license. It's a requirement with that  
37 individual license. It's not a rule or a regulation. Those are terms that I think the FCC  
38 uses differently. So that's why I have problems with it.

39  
40 Councilmember Knapp,  
41 But to that end, so modify "rules and regulations" and say "established by the licensing  
42 requirements of the FCC."



December 6, 2006

1  
2 Councilmember Praisner,  
3 I don't have any problems with that.

4  
5 Councilmember Knapp,  
6 I see heads nodding vigorously in the background.

7  
8 Cliff Royalty,  
9 I would just repeat what I said. Then we would be interpreting the licensing  
10 requirements of the FCC. The FCC is going to interpret their own requirements and  
11 determine what the right height is, and I want to defer to that. I don't want us deciding  
12 what the requirements of the FCC are.

13  
14 Councilmember Knapp,  
15 I don't think that necessarily says that we're deferring...

16  
17 Councilmember Praisner,  
18 Cliff, If you said "established by the FCC's licensing requirements," then the FCC has  
19 said what it is.

20  
21 Councilmember Subin,  
22 If I could suggest, I think you're getting into some semantics here. Cliff seems -- I think  
23 what Mr. Knapp is saying is by the license, that specific license.

24  
25 Councilmember Praisner,  
26 Right.

27  
28 Councilmember Subin,  
29 For whatever...

30  
31 Councilmember Knapp,  
32 However the FCC makes -- whatever requirements the FCC has to make its  
33 determination.

34  
35 Councilmember Subin,  
36 That would be by the license granted to the licensee by the FCC.

37  
38 Councilmember Knapp,  
39 What I'm seeking is an affirmative action on the part of the FCC for us to make  
40 modifications to our...

41  
42 Councilmember Subin,

December 6, 2006



1 That's by the license granted to the licensee by the FCC. There's no interpretation  
2 there.

3  
4 Ralph Wilson,  
5 Yeah, or established in the license issued by the FCC.

6  
7 Cliff Royalty,  
8 The FCC may also issue a permit, too. They issue a permit and a license. and the  
9 permit may actually have the height...

10  
11 Councilmember Perez,  
12 Is this our consultant?

13  
14 Councilmember Subin,  
15 Okay, what is the --- look, what is the wording necessary to get to where Mr. Knapp  
16 wants to go? I mean, we're sitting here suggesting things. You all are saying, well, no,  
17 there's this and that. What is he saying they're going to come out and say this tower  
18 needs to be so high. So what is the language that is necessary?

19  
20 Councilmember Knapp,  
21 Well, I've got something that has been proposed that is much more specific. I don't  
22 know that that necessarily addresses it.

23  
24 Cliff Royalty,  
25 I don't necessarily want to be more specific. I just think we need language in there that  
26 it's clear that we're deferring to the FCC's determination on height, where we're not  
27 applying the FCC regs, they are. Mr. Subin's points -- I agree with what Mr. Subin said,  
28 if the FCC license and/or permit states a height, and we're acknowledging that that  
29 controls, then that addresses my legal issue.

30  
31 Multiple Speakers,  
32 Right.

33  
34 Ralph Wilson,  
35 Let me suggest...

36  
37 Councilmember Praisner,  
38 Go ahead, Ralph.

39  
40 Ralph Wilson,  
41 ..."as established in the license issued by FCC."

42



December 6, 2006

1 Councilmember Praisner,  
2 License or permit.  
3  
4 Ralph Wilson,  
5 Or permit issued by the FCC.  
6

7 Lee Aftroback,  
8 Construction permit.  
9

10 Cliff Royalty,  
11 That's fine.  
12

13 Council President Leventhal,  
14 Does that get what you want? Just a moment, Ms. Floreen.  
15

16 Ralph Wilson,  
17 Clarification is that it's a construction permit?  
18

19 Lee Aftroback,  
20 Lee [Aftroback], Columbia Telecommunications. The process is that an applicant files  
21 for a station, gets a construction permit based on meeting FCC criteria. In other words,  
22 they have to meet many technical standards, and the FCC will then, if they meet those  
23 standards or if the FCC waives the rules, will grant a so-called construction permit. The  
24 construction permit clearly lays out the location, the number of towers, the height of the  
25 towers, the dimensions of the towers and all that information. They then build a station,  
26 typically they have and estimated three years to build a station, talking broadcast now.  
27 When they build the station, then they go back for a license to cover the construction  
28 permit. The very first question on the license application, "Have you done everything  
29 you were supposed to do in the construction permit?" That's how they...  
30

31 Councilmember Subin,  
32 But what is the document that drives -- the document issued by the FCC that drives the  
33 height of the antenna?  
34

35 Lee Aftroback,  
36 That's the construction permit.  
37

38 Councilmember Subin,  
39 The construction permit. Fine. Then "by the construction permitted granted to the  
40 licensee by the Federal Communications Commission."  
41

42 Councilmember Praisner,

December 6, 2006



1 See, here's the issue. I think we want them...

2  
3 Councilmember Subin,  
4 It's a given.

5  
6 Councilmember Praisner,  
7 No, Tom -- Mike, I'm sorry. I think we want them to have the minimum amount of height  
8 that is necessary in order to comply with the requirements that they have for the license  
9 they are requesting as far as being able to fulfill the requirements. I'm sorry, folks in the  
10 community, but that's the way it works.

11  
12 Council President Leventhal,  
13 Ms. Floreen?

14  
15 Councilmember Floreen,  
16 Well, that's what I'm trying to understand. I assume -- well, you can tell us since you're  
17 our expert. That is correct? Or an expert.

18  
19 Lee Aftroback,  
20 Allegedly, yes.

21  
22 Councilmember Floreen,  
23 Sir, are there minimum heights at the FCC?

24  
25 Lee Aftroback,  
26 Are there minimum heights? There are no...

27  
28 Councilmember Floreen,  
29 I mean, I assume there was a range.

30  
31 Lee Aftroback,  
32 The way -- in other words, when somebody putting together an application, they have to  
33 meet certain criteria. The height of the antenna is one of the factors in meeting that  
34 criteria. Is the construction permit that is granted using the absolute minimum height  
35 possible? I can't answer that question. It's going to vary from application to application.

36  
37 Councilmember Floreen,  
38 I would expect that it would depend.

39  
40 Lee Aftroback,  
41 That's correct.



December 6, 2006

1 Councilmember Floreen,

2 And it might -- there might be a variety of factors that an applicant might consider both  
3 the current need and future need, I don't know. But I think the intention as it was  
4 proposed -- as the bill is before us, is to try to keep these towers at the lowest end of the  
5 scale.

6  
7 Councilmember Knapp,  
8 Correct.

9  
10 Councilmember Floreen,  
11 Under the language that's proposed, there is no such effort. Because you're basically  
12 saying, if I apply for a 500-foot tower and if it meets FCC requirements generally, then  
13 that's going to be permitted.

14  
15 Unidentified,  
16 [INAUDIBLE]

17  
18 Councilmember Praisner,  
19 "Minimum" is there.

20  
21 Councilmember Floreen,  
22 Well, I'm trying to understand what was wrong with the language that is before us,  
23 because I think it achieves that objective.

24  
25 Councilmember Praisner,  
26 That was the goal was, Ms. Floreen.

27  
28 Councilmember Knapp,  
29 That's what the goal was. That's correct.

30  
31 Councilmember Floreen,  
32 Because the idea was that it would not -- it would be held --

33  
34 Councilmember Praisner,  
35 Minimum.

36  
37 Councilmember Floreen,  
38 We would expect that the applicant would be held to the minimum that was necessary  
39 to satisfy, the range of whatever they have to satisfy in terms of coverage and whatever  
40 it is. So if you just were to refer this to the construction permit or that other license or  
41 permit authorized, that would just allow the applicant to make that decision.

42





December 6, 2006

1 Councilmember Knapp,  
2 Right, and that's what we're trying to avoid.

3  
4 Councilmember Floreen,  
5 So I am not -- Mr. Knapp, if that is the objective, could you explain why this language  
6 here does not achieve that? The language that was already in -- on Circle 21, because  
7 it says unless it can -- because the whole point of it is that any additional height over the  
8 275 feet would be necessary to satisfy the lowest level that could be required here.

9  
10 Councilmember Knapp,  
11 Right. The intent was to merely try to tighten it up and tie it back to the requirement that  
12 the FCC would issue..

13  
14 Councilmember Floreen,  
15 And that's what I thought the minimum requirements would achieve as currently written.  
16 I mean, if we are all on the same page here, I'm not -- I would urge that we stick with --  
17 include the term "minimum requirements established by the FCC," deferring of course to  
18 whatever they're calling that, the subject would be, which would address Mr. Royalty's  
19 concern. So I am not sure that we need a change to this. If this does not achieve that --  
20 if this does achieve that objective. Mr. Royalty, you thought it did?

21  
22 Cliff Royalty,  
23 Yeah. I mean, I think that's the intent that's been expressed, too, so I'm comfortable with  
24 that.

25  
26 Councilmember Floreen,  
27 Okay. Well, then I think we're okay, Mr. Knapp.

28  
29 Councilmember Knapp,  
30 I think we may be. I mean I know that the community wanted a greater level of  
31 specificity and tie it back to the community of licenses and coverage requirements by  
32 the FCC, found in the CFR -- I'm not sure to get into that level of specificity...

33  
34 Councilmember Praisner,  
35 I don't think we should here.

36  
37 Councilmember Floreen,  
38 [INAUDIBLE] with the way it's written.

39  
40 Councilmember Knapp,  
41 I wanted to have the discussion.



December 6, 2006

1 Cliff Royalty,  
2 Okay.  
3  
4 Councilmember Praisner,  
5 I think Mr. Silverman -- oh, did you have other amendments then, Mr. Silverman? Do  
6 you have amendments?  
7  
8 Councilmember Silverman,  
9 No.  
10  
11 Councilmember Praisner,  
12 Okay, then that's it. That's it.  
13  
14 Council President Leventhal,  
15 Okay, very good. So we'll go to a roll call vote on ZTA 05-10.  
16  
17 Council Clerk,  
18 Mr. Denis.  
19  
20 Councilmember Denis,  
21 Yes.  
22  
23 Council Clerk,  
24 Ms. Floreen.  
25  
26 Councilmember Floreen,  
27 Yes.  
28  
29 Council Clerk,  
30 Mr. Subin.  
31  
32 Councilmember Subin,  
33 Yes.  
34  
35 Council Clerk,  
36 Mr. Silverman.  
37  
38 Councilmember Silverman,  
39 Yes.  
40  
41 Council Clerk,  
42 Mr. Knapp.

December 6, 2006



1  
2 Councilmember Knapp,  
3 Yes.  
4  
5 Council Clerk,  
6 Mr. Andrews.  
7  
8 Councilmember Andrews,  
9 Yes.  
10  
11 Council Clerk,  
12 Mr. Perez.  
13  
14 Councilmember Perez,  
15 Yes.  
16  
17 Council Clerk,  
18 Ms. Praisner.  
19  
20 Councilmember Praisner,  
21 Yes.  
22  
23 Council Clerk,  
24 Mr. Leventhal.  
25  
26 Council President Leventhal,  
27 Yes. Thank you very much. It passes unanimously. Mr. Silverman?  
28  
29 Councilmember Silverman,  
30 Thank you, Mr. President. I had to step out for a minute and on Agenda Item 15 which  
31 was the Planning Board Draft Amendment to the Master Plan For Historic Preservation,  
32 Moreland and Sycamore Store. I'd like to be recorded in the affirmative.  
33  
34 Council President Leventhal,  
35 Okay. The last item for this morning -- now it's this afternoon -- is ZTA 05-13, Sign  
36 Review Fees.  
37  
38 Councilmember Praisner,  
39 I just want to clarify something. Mr. Wilson is going to fix that so it applies to any  
40 pending request. Correct?  
41  
42 Ralph Wilson,



December 6, 2006

1 Correct.

2  
3 Council President Leventhal,  
4 Okay. Regarding ZTA 05-13, Mr. Silverman.

5  
6 Councilmember Silverman,  
7 Thank you very much. This is the ZTA sponsored by the new President and Vice  
8 President of the Council. The issues that the Committee took up, we heard some push  
9 back from DPS indicating they didn't want to lose revenue from waived fees. The  
10 Committee recommendation is to pass the Zoning Text Amendment, and we will see  
11 what happens with the revenue loss experience. It sounds like it's a very minor amount  
12 of money under any circumstances. The Committee did recommend amendments to  
13 define eligible nonprofit organizations as those that are exempt from federal income  
14 taxes to limit the eligible nonprofit organizations to those whose most recent annual  
15 revenues are below an amount set by Method 2 regulation and to limit eligible signs to  
16 those smaller than a size set by regulation. We wanted to get some more specific  
17 information about some of these organizations, because just simply having a waiver for  
18 all nonprofits opens it up to theoretically multimillion dollar nonprofits who could easily  
19 pay the fees. So we just figured we would get through the regulatory process some  
20 specific dollar amounts whether it was revenues or budget or whatever the right term  
21 would be. Actually, it would be revenue during most recent fiscal year, and then we  
22 could make sure that it's applying to the type of organizations that I think the sponsors  
23 had in mind. So the Committee recommendation was unanimous.

24  
25 Council President Leventhal,  
26 Great. And I thank the PHED Committee for its support for this legislation. We should  
27 not be imposing ridiculous burdens on little community serving organizations that are  
28 only in business to do good. And Ms. Praisner, did you have a comment?

29  
30 Councilmember Praisner,  
31 I just wanted to -- I think the highlight is exactly as Mr. Silverman said that we not have  
32 unintended consequences, because there are a lot of nonprofits. I would just urge the  
33 Executive Branch to send over the regulations as soon as possible.

34  
35 Council President Leventhal,  
36 Okay. Roll call vote on ZTA 05-13.

37  
38 Council Clerk,  
39 Mr. Denis.

40  
41 Councilmember Denis,  
42 Yes.

December 6, 2006



1  
2 Council Clerk,  
3 Ms. Floreen.  
4  
5 Councilmember Floreen,  
6 Yes.  
7  
8 Council Clerk,  
9 Mr. Subin.  
10  
11 Councilmember Subin,  
12 Yes.  
13  
14 Council Clerk,  
15 Mr. Silverman.  
16  
17 Councilmember Silverman,  
18 Yes.  
19  
20 Council Clerk,  
21 Mr. Knapp.  
22  
23 Councilmember Knapp,  
24 Yes.  
25  
26 Council Clerk,  
27 Mr. Andrews?  
28  
29 Councilmember Andrews,  
30 Yes.  
31  
32 Council Clerk,  
33 Mr. Perez.  
34  
35 Councilmember Perez,  
36 Yes.  
37  
38 Council Clerk,  
39 Ms. Praisner.  
40  
41 Councilmember Praisner,  
42 Yes.

December 6, 2006



1  
2 Council Clerk,  
3 Mr. Leventhal.  
4  
5 Council President Leventhal,  
6 Yes. We're going to take an hour and 15 minutes for lunch. We will resume Council  
7 session for the public hearing at 2:15.

December 6, 2006



1 Council President Leventhal,  
2 Good afternoon, ladies and gentlemen, this is a public hearing on the spending  
3 affordability guidelines that the Council must set for the FY'07 Operating Budget under  
4 Sections 305 of the Charter and Sections 20-59 and 20-63 of the County Code. The  
5 guidelines must be based on affordability rather than need, and may be higher or lower  
6 than those considered at the public hearing. The guidelines establish a ceiling subject to  
7 a subsequent seven-vote Council override on the aggregate Operating Budget,  
8 recommended agency spending allocations, and a ceiling on the property tax revenues.  
9 The Council may amend the guidelines in April of 2006. The Management and Fiscal  
10 Policy Committee work session is tentatively scheduled for December 12th, 2005.  
11 Persons who wish to submit additional information for the Council's consideration  
12 should do so by the close of business, Wednesday, December 7. We have three  
13 speakers: Chairman Derick Berlage; School Board member Charles Haughey; and  
14 Marvin Weinman, representing the Montgomery County Taxpayers League. Mr.  
15 Chairman, please introduce yourself and proceed.

16  
17 Derick Berlage,  
18 Thank you very much. Derick Berlage for the County Planning Board. Congratulations,  
19 Mr. Leventhal and Ms. Praisner, on your leadership positions, and we want to thank  
20 Councilman Perez for his terrific leadership in the past year.

21  
22 Unidentified,  
23 [INAUDIBLE]

24  
25 Derick Berlage,  
26 And the minority leader as well. Congratulations to you, sir. A unanimous vote, as usual.  
27 The Planning Board understands its obligation in budget decisions is to recommend to  
28 you the amount of funding that will ensure the effective provision of those services  
29 assigned to us by law and County Policy. We will meet that obligation and we will work  
30 diligently with you over the coming budget season to make sure we have explained  
31 clearly our justification for the requested amounts. And, as always, we will respect your  
32 final decisions. However we also recognize that we must be partners with you in  
33 achieving a budget that reflects prevailing conditions and which strikes a responsible  
34 balance between providing public services on the one hand and consideration of tax  
35 burdens on the other. In the current fiscal year we will be working very hard to deal  
36 effectively with the performance shortfalls in our Development and Review Process. We  
37 are dedicated to that high-priority task and we have acted already to complete many  
38 improvements and to pursue many others. With your help we will succeed in returning  
39 the Development and Review Process to high performance and strong public  
40 confidence. Let me say today, as I have said before, that we will not rest until our  
41 Development and Review Division is a national model of accuracy, transparency, and  
42 accountability, and one which every citizen in this County can be proud of. An essential

December 6, 2006



1 component of that improvement strategy is effective fiscal management.  
2 Councilmembers have signaled that your presumption that the '07 budget should  
3 assume property taxes at the Charter limit. And as part of our responsibility to be a  
4 partner with you the Planning Board commits to sending you a budget request that will  
5 be consistent with your goal of keeping property taxes at the Charter limit. We will do  
6 this by several strategies. First, we will work to strip the base budget of any costs that  
7 cannot be justified as essential. Second, we will move some expenditures to a source of  
8 funding other than taxes. And third, we will take great care in proposing only a small list  
9 of new funding initiatives. Notwithstanding, we will request new funds to meet our two  
10 top priorities; which are comprehensive reform of the Development and Review Process  
11 and secondly, adequate maintenance of infrastructure dollars for the County's award-  
12 winning park system. Finally, we would ask that the Council over the course of this  
13 season recall two facts that are particular to Park and Planning. First, we are unique in  
14 that almost 90 percent of our revenues come from property taxes. That means restraint  
15 on property tax levies, all other things and taxes being equal, could have a more serious  
16 impact on the services that Park and Planning provides. Second, with the leadership  
17 that has been provided by MFP, we have sought to ensure adequate funds balances in  
18 each of our funds to protect against revenue shortfalls or expenditure emergencies. We  
19 would again ask the Council to allocate sufficient funding to support this very important  
20 fiscal practice. Thank you.

21  
22 Council President Leventhal,  
23 Thank you. Mr. Haughey.

24  
25 Charles Haughey,  
26 Mr. Chair, good afternoon, President Leventhal and Vice President Praisner, and  
27 associate members of the Council. I am Vice President of the Montgomery County  
28 Board of Education. The president of our board, Ms. O'Neill, is fulfilling duties of her role  
29 as President of the Maryland Association of Boards of Education and a prior  
30 commitment, and she couldn't be with us today. I'm testifying on behalf of the Board on  
31 proposed operating budget spending affordability guidelines for Fiscal Year 2007. The  
32 Board urges the Council to set guidelines that will continue to support and to enhance  
33 the County's investment in the educational programs of the Montgomery County Public  
34 Schools. On November 28th, 2005, your Management and Fiscal Policy Committee  
35 adopted a preliminary spending affordability guideline allocation for Montgomery County  
36 Public Schools of \$1.73 billion. This amount is an increase of 8.5 percent from Fiscal  
37 Year 2006. The Committee set preliminary property tax rates at the Charter limit. We  
38 are encouraged by reports from the County Finance Department which shows the  
39 economy is growing strongly, both at the local and national level. Jobs and incomes are  
40 up, property values are up, and new construction remains strong. Like you, we know the  
41 prosperity of our County depends on a great extent on the strong reputation for  
42 excellence of Montgomery County Public Schools. The County's revenue estimates



December 6, 2006



1 include a projected increase of \$49.1 million in additional state aid for education  
2 resulting from Bridge to Excellence Act. The estimates include a increase of \$17 million  
3 for the geographic cost of education index, the GCI, in fiscal year 2007. The Board of  
4 Education realizes that these funds are far from guaranteed and but we consider it  
5 essential that the Governor include it in his operating budget. The Board will continue to  
6 work with you to persuade the legislature to fully Thornton, including the GCI. We will  
7 need maximum financial support from the state to address the educational challenges  
8 we face in Montgomery County. As you know, demographic changes underway in  
9 Montgomery County continue to transform the landscape of the school system.  
10 Montgomery County Public schools continue to undergo a significant change in student  
11 demographics, gaining greater diversity culturally, linguistically, and economically. The  
12 most profound changes incurring in the urbanized areas of the County most heavily  
13 impacted by increased poverty, immigration, and a growing number of English language  
14 learners. Our County is the largest school system in Maryland, the 17th largest in the  
15 United States. Half of our elementary school students are enrolled in schools in the the  
16 60 attendance areas proficiency...

17  
18 Councilmember Praisner,  
19 Charles, I don't think your light was on, could you have them check that?  
20

21 Charles Haughey,  
22 I'm sorry, I hadn't noticed. Those attendance areas span Takoma Park to Germantown  
23 which together comprise an enrollment comparable in size to the nation's 75th largest  
24 school district. We continue to experience significant growth in the number of students  
25 who require special education. Our own accountability measures continue to identify  
26 significant disparities in student achievement by race, ethnicity, poverty, limited English  
27 proficiency and disability. The Board's initiatives that have been supported by this  
28 Council have gone a long way toward addressing those disparities and meeting the  
29 mandatory requirements of the No Child Left Behind Act and the State's Bridge to  
30 Excellence Act. We have focused on accountability...

31  
32 Councilmember Praisner,  
33 Charles, I'm sorry, your time is up. If you just want to summarize in a last sentence,  
34 please.  
35

36 Charles Haughey,  
37 That would be fine. Thank you. We are confident that the FY 2007 Operating Budget will  
38 contain sufficient resources to help all our children faced with your consistent support  
39 for our schools and the productive partnership that we have built with your help and that  
40 of the County Executive. That seems to be a good place to stop. Thank you.  
41

42 Councilmember Praisner,

December 6, 2006



1 Thank you. Marvin.

2  
3 Marvin Weinman,

4 My name Marvin Weinman, I'm president of the Montgomery County Taxpayer League.  
5 The testimony is on the spending affordability guidelines. But it's more than SAG, it's the  
6 start of the budget process. This is my fifth year of involvement in the budget. It's a  
7 complex process with lots of data, too much data. I appreciate the difficult efforts that  
8 are facing the MFP Committee and look forward to working with them. It's a been a  
9 learning process finding out something new every year, the department review takes  
10 significant effort in order to focus on what he is important and identify the questions that  
11 need to be asked. I've had outstanding support of Council Staff in my budget education.  
12 I try to simplify the issues and provide simplified charts and fact sheets for my  
13 testimony, Taxpayer League discussion, and requested public presentations. You have  
14 my latest chart before you that was part of the briefing at last Thursday's League  
15 meeting which led to the detailed discussion of both SAG and the new fiscal plan  
16 documentation. How does one communicate with the Council? Testimony time has  
17 been reduced to three minutes, seating time is no longer allowed, Council Rules of  
18 Procedure, Rule 9F specifically prohibits debate. As evidenced by the Clarksburg  
19 situation, the general public has raised the issue of accountability. Though there is no  
20 indication of impropriety on the part of any officials, there are questions of accountability  
21 that beg to be answered. Council current policy and procedures generally limit the  
22 possibility and fail to provide a opportunity to address accountability concerns. Most  
23 citizens have not been provided enough understandable factual information from their  
24 elected officials to ask proper questions even if there was an available process. The  
25 County spends \$1.7 billion on public education while providing minimum resources for  
26 education of the public on significant matters such as the budget. For example, the  
27 initial MFP spending affordability session was held in a location that didn't have any  
28 capability for TV presentation. Following today's testimony and an MFP session on  
29 Monday we'll be providing a recommendation to the Council for a vote the next day.  
30 Hardly a lot of time for any public involvement. The Council does conduct town  
31 meetings. I've been to quite a few. Town meetings center on local issues such as speed  
32 bumps, trash in the park, and other issues of local concern. The Taxpayer League will  
33 continue to provide basic budget presentations as well as current FY'07 budget updates  
34 on request to interested organizations who will encourage and be glad to cooperate in a  
35 similar manner with the Council efforts. The league is also considering sponsoring a  
36 budget forum following the release of the Council's -- the Executive's budget, pretty  
37 much as we had done in previous years. The goal is to fill the current void in public  
38 education on the budget to allow the option for greater citizen participation in the  
39 upcoming FY'07 budget process. My written testimony will be provided tomorrow and  
40 will reflect what I've heard in testimony today, providing SAG recommendations as  
41 appropriate. I'll be happy to review my chart anytime, anywhere, anyplace. Thank you.

December 6, 2006



1 Councilmember Praisner,  
2 Thank you very much. Mr. Andrews.

3  
4 Councilmember Andrews,  
5 Thank you. Thank you all for your testimony. I think we're starting off this budget year  
6 with good news and starting with strong revenues. And the bottom line is that we should  
7 have no reason that we do not come in at the Charter limit. We absolutely should come  
8 in at the Charter limit this year as we did last year. And it's also clear that coming in at  
9 the Charter limit still allows us to have a robust increase for spending of public schools  
10 of 8.5% as allocated by the Committee and its recommendation for public other public  
11 services as well that are critical to our residents: Parks, Public Safety, Health and  
12 Human Services, Transportation. So we have a strong revenue picture this year. But we  
13 also have to remember that we have still very high assessments from the last three  
14 years that are kicking in, and the reason it's important to keep -- the two reasons why  
15 it's important to come in at the Charter limit and finish at Charter limit: and that is, one,  
16 that there are a lot of people that are really feeling the bite from the very assessments.  
17 So if we come in at the Charter limit then the increases are basically kept to the rate of  
18 inflation, which people can manage because usually incomes are keeping up with  
19 inflation but often not more. And second, it's also important that the Charter limit that  
20 was adopted by the voters in 1990 be respected. And it has a -- as we all know it has a  
21 override provision in those situations where it's not feasible or desirable to stay at the  
22 limit and the Council has exercised that option several times. Clearly this is a year  
23 where we can provide the amount of resources that we need for our public safety and  
24 public health and public school and other essential services and still abide by the  
25 Charter limit and keep property taxes to a reasonable level, and that's why we should do  
26 that. The property tax is more regressive than most other forms of taxes, and we have a  
27 broad array in Montgomery County. The income tax is at its maximum and that is a  
28 more progressive way of funding services than many other taxes. The energy tax is also  
29 more flexible than the property tax because people can adjust it to some degree by their  
30 own use, their own habits, since it's related to use and not a flat amount as the property  
31 tax is. So for a number of reasons from a policy perspective, it's important to keep  
32 property taxes at a reasonable level and to try to keep them down below the other rates  
33 which are more progressive. So thank you for your testimony. I think the revenues are  
34 looking good and the temptation though to spend one-time revenues on permanent  
35 expenditures is one that has to be resisted. To the extent that we have one-time  
36 windfalls, those should be focused on one-time expenditures and not on continuing  
37 programs that would require us to find additional sources when those one-time  
38 revenues run out. That's also I think the Council needs to keep in mind.

39  
40 Councilmember Praisner,  
41 Thank you, Mr. Andrews. Mr. Knapp.



December 6, 2006

1 Councilmember Knapp,

2 Thank you, Madam Chair. Thank you all for your testimony, appreciate it. Vice President  
3 Haughey, I noticed that you have honed in on the increase of 8.5% in the spending  
4 affordability guidelines and that is, in light of the increase that we saw last year -- I think  
5 the school system came in at 6.5%. and kind of building on Mr. Weinman's thoughts,  
6 nothing we're doing occurs in a vacuum and I know that budgets have a tendency to fill,  
7 to suck up any excess capacity And so while I think that the number in spending  
8 affordability is a generous number, I think we heard earlier that we're estimating kind of  
9 not significant increases in school population and so I would urge MCPS as we go  
10 through this to recognize that if there is some additional capacity within their budget that  
11 we can certainly make up some shortfalls that we've had in other parts of the budget,  
12 not necessarily to expand to fill the 8.5% just 'cause we know that we can do it.  
13 Because there are a number of issues that we're going to have to deal with Park and  
14 Planning, a number infrastructure issues that were identified in our operating budget last  
15 year for DPWT And, so clearly everyone is committed very strongly to education, and  
16 that is the reason that, as you correctly point out, many of the things are working. But I  
17 also think it's a pretty generous number that in the spending affordability as a starting  
18 point, and so we don't necessarily to recognize all the other things we'll have out there,  
19 too, as you guys are putting your budgets together, and I know you'll do a great job and  
20 I look forward to conversations in the coming months. Thanks.

21  
22 Councilmember Praisner,

23 Thank you, Mr. Knapp. I would also note that the spending affordability guidelines  
24 numbers, since Mr. Haughey made reference to GCI, the Geographic Cost of Education  
25 Index, which is major part of Thornton funding at the state level which has not been  
26 funded as yet. That the Council consistent with its policy of incorporating the maximum  
27 revenues that are associated with state funding at this point to the extent we are due  
28 money under certain programs. So, therefore, those funds for GCI are incorporated  
29 within the spending affordability state money and also incorporated in the appropriation  
30 to the school system. That means that all of us need to work very hard as your  
31 testimony indicates to make sure that the Governor and the legislature come forward  
32 with the requirements. The only other point I would make is that in that arena of state  
33 funding, we've been that there may be some issues associated with highway user  
34 money to local governments because folks given the high gasoline prices have at  
35 certain points or at least in previous months reduced their spending to some extent in  
36 order to curtail their gasoline purchases. Therefore, the projected allocations to local  
37 governments may be modified we've been told. And that generated the comment from  
38 my colleague from Garrett County who relies on that money for snow removal that any  
39 reduction there hopefully will also be matched by a reduction in snow, or he's going to  
40 have a problem. And I guess so will Ms. Floreen, if she wants to go to Deep Creek  
41 Lake. In any case, we're just starting the budget process. I welcome your participation,  
42 welcome Mr. Weinman's participation in the discussion at the MFP Committee as well.



December 6, 2006

1 You make some good suggestions for things that we might want to talk about as far as  
2 broadening the public's understanding of the budget. And I will be discussing those with  
3 Mr. Lacefield and with the Council President as well. Thank you all very much. I see no  
4 other questions. Good afternoon, ladies and gentlemen, this is a public hearing on a  
5 resolution to establish a Transportation Management District, TMD, in greater Shady  
6 Grove, with authority given to charge a TMD fee on new and existing development. This  
7 is also a public hearing on Bill 36-05 Transportation Management Districts Fees which  
8 would authorize the County Council to set by resolution the amount of a Transportation  
9 Management Fee to cover the cost of certain services provided by the Transportation  
10 Management District, repeal of prohibition against charging a Transportation  
11 Management Fee that exceeds a certain rate, make technical and stylistic changes, and  
12 generally amend the law governing Transportation Management Districts. The Council  
13 may consider an amendment to make this bill effective immediately. A Transportation  
14 and Environment Committee work session is tentatively scheduled for January 19th,  
15 2006. Persons wishing to submit additional information for the Council's consideration  
16 should do so by the close of business, December 30th, 2005. Before beginning your  
17 presentation please state your name clearly for the record. We have two individuals who  
18 have signed up to testify: Sue Edwards from the Planning Board and Dave Frieishtat as  
19 an individual. Is Mr. Frieishtat -- I don't see Dave. Sue?

20  
21 Sue Edwards,

22 Good afternoon, I'm Sue Edwards, team leader with the I-270 Corridor planning area at  
23 Park and Planning, and we're here to speak in support of both the resolution and the  
24 bill. We have long been following this issue of a promise to the residents and business  
25 leaders to provide nonautomobile transportation programs. And we applaud the Council  
26 and the Executive for reinvigorating this effort. We feel the timing is good as Council  
27 moves towards approving the Shady Grove Sector Plan later in 2006, in which there is a  
28 specific recommendation about Transportation Demand management. Along with this  
29 overall endorsement of the resolution we'd like to highlight three topics that we feel  
30 could be addressed during the Committee work certifications forthcoming. First of all, is  
31 an adequate level a DPWT staffing and funding such that this is going to be the  
32 County's fifth largest TMD -- or the fifth TMD and the largest by quite a wide margin so  
33 we urge you to concurrently consider the related staffing implications and assure  
34 adequate funding for the Commuters Services budget to support this work. Secondly,  
35 there's a number of steps that will be required to get a TMD up and running and we  
36 want to make sure that that is conducted in a transparent process such that the  
37 Executive resolutions are available to public review and comment as the Committee  
38 begins their work session. Thirdly, that the TMD boundaries must be fine-tuned and we  
39 had noted that there are some small discrepancies in the geography that has been  
40 described here as the geography described in the Shady Grove Sector -- the draft  
41 Shady Grove Sector Plan. But this is something that we feel is resolvable through  
42 working together to resolve those issues. We feel it's important that business and



December 6, 2006

1 employers within a Transportation Management District benefit from the County's  
2 programs and services so that the fees should apply to all existing and proposed  
3 commercial development in the defined Transportation Management District. We urge  
4 to provide guidance to the Executive on key implementation issues such as when and  
5 how the fees are collected and what types of programs and services the funds can be  
6 spent and in which County Budget account the money sits so the fees collected are  
7 focused on Transportation Demand activities. As always we offer our cooperation at the  
8 staff and Planning Board level and look forward to working with you.

9  
10 Councilmember Praisner,

11 Thank you. Will you make sure we get a copy of your testimony? Dave Frieishtat, and I'll  
12 turn it over to you.

13  
14 Dave Frieishtat,

15 Good morning. First of all, I guess, Mr. Leventhal and Ms. Praisner congratulations on  
16 your election to President and Vice-president of the Council. I'm sure you were very  
17 pleased with the honor that was bestowed to you by your fellow councilmembers.

18  
19 Council President Leventhal,

20 Thank you, Dave.

21  
22 Dave Frieishtat,

23 My name is Dave Frieishtat, I'm an attorney with Shulman, Rogers, Gandall, Pordy, and  
24 Ecker. I'm here representing today on the TMD issue Pollinger properties, Friendship  
25 Heights Properties. The Pollinger family is the owner of Friendship Heights Properties  
26 and they own a number of improved office buildings and rental apartments in both the  
27 Friendship Heights and Bethesda. They would like the Council to consider the idea of  
28 the issue that's in the bill where you're authorizing the Council to impose TMD fees on  
29 improved properties. These properties are already developed, their economics are  
30 already set. Their leases are in place. It's if not difficult, impossible to pass these costs  
31 on to their tenants. They're already involved in the TMD process. In many cases they're  
32 serving on the TMD advisory boards and they're allowing the TMD personnel to come in  
33 and market to their tenants in the buildings. For the issue of fairness alone we suggest  
34 that this idea be taken off the table, so to speak, and that the imposing of TMD fees on  
35 improved properties not be a part of the consideration for the resolutions that will come  
36 in the following months and years. There's also some issues, I have a letter to Mr.  
37 Perez, unfortunately he was Council President when I wrote the letter. Your elevation is  
38 real fresh. And I'd point out that there's some case law in Maryland that talks about  
39 retroactive fees being imposed on existing properties and how, in many cases, they're  
40 not allowed. I'm available for any questions you might have.

41  
42 Council President Leventhal,

December 6, 2006



1 Okay, thank you. Question from Mr. Silverman.

2  
3 Councilmember Silverman,

4 Thank you, Mr. President. Dave, as a former tenant in a commercial building, I did not  
5 exactly relish the annual pass-through bill that I got from my landlord, but nonetheless  
6 had to pay it. So I guess what I would be interested in before we vote on the legislation,  
7 apart from the legal issues, is you alluded to the difficulty of passing these charges  
8 along. So I guess my question to you, which if you want to get back to me and us would  
9 be fine, is whether or not the leases that your client has and I'm sure you're familiar with  
10 other standard leases -- provides for pass-through of fees, because it's certainly the  
11 case with regard to other charges and I'm just wondering whether there's something  
12 unique about the characterization of a Transportation Management Fee that would be  
13 different than property taxes or energy costs or anything else that's normally passed  
14 along.

15  
16 Dave Frieishtat,

17 I thought you'd ask that question. Without having going back to their individual leases  
18 and I spoke to Arnie Pollinger our meeting, and he said most of the leases, you know,  
19 are structured the way typically they are. They pass through utility costs and they pass  
20 through taxes. This is a different breed of charge and the courts recognize that it's a  
21 different breed of charge. Most of their leases don't address this, and obviously if it's not  
22 addressed they can't pass it through. And then, of course, you know, it's not anticipated  
23 by their tenants. It raises problems in the sense that it's something that was not thought  
24 through when leases were many of them signed. Many leases now go for 10, 15 years  
25 with options. It becomes a burden either on the tenant or on the landlord for something  
26 that they are already taking part in, part of, and in many cases they're serving either as  
27 a landlord or a tenant on the CMD Committees. I'll get back to you on ...

28  
29 Councilmember Silverman,

30 I didn't want to debate it, and that's fine. I would be interested to take a look at any  
31 lease provisions just to see. We and many other lawyers may disagree about its  
32 applicability, but you've raised a legitimate concern. I would just like to understand a  
33 little bit more about the particulars.

34  
35 Dave Frieishtat,

36 I will get back to you.

37  
38 Councilmember Silverman,

39 Okay. Thanks.

40  
41 Dave Frieishtat,

42 Thank you.



December 6, 2006

1  
2 Council President Leventhal,  
3 Ms. Floreen.

4  
5 Councilmember Floreen,  
6 Thank you. Mr. Frieishtat, are you saying that the Friendship Heights Traffic  
7 Management District clearly allows the Department or the Council to charge a fee to  
8 existing properties?

9  
10 Dave Frieishtat,  
11 No. This bill authorizes the Council, if and when they choose to adopt a TMD fee for the  
12 various TMDs, to include in that fee existing properties.

13  
14 Councilmember Floreen,  
15 Well, I would urge to you get work to the language and get back to us on precisely you  
16 see that, because I think it says if the resolution creating a district so provides.

17  
18 Dave Frieishtat,  
19 Correct.

20  
21 Councilmember Floreen,  
22 And that is the question.

23  
24 Dave Frieishtat,  
25 That's the issue. We're saying at the get go we would object -- my clients would object  
26 to having it in the authorizing legislation as this is [INAUDIBLE].

27  
28 Councilmember Floreen,  
29 Well, the point is that there is a Traffic Management District that already anticipates that.  
30 That's a one thing. And the question is is that the case in Friendship Heights?

31  
32 Dave Frieishtat,  
33 Right now, it doesn't.

34  
35 Councilmember Floreen,  
36 Then query whether this would be -- create that problem for you. I'd ask you give that  
37 some thought in terms of the legal analysis.

38  
39 Dave Frieishtat,  
40 Okay.

41  
42 Councilmember Floreen,



December 6, 2006



1 And we will certainly work with you on that.

2  
3 Dave Frieishtat,  
4 Great, thank you.

5  
6 Councilmember Floreen,  
7 Thank you.

8  
9 Council President Leventhal,  
10 Very good, thank you both.

11  
12 Dave Frieishtat,  
13 Thank you very much.

14  
15 Council President Leventhal,  
16 That takes us to Agenda Item 21. This is a public hearing on a supplemental  
17 appropriation to the County government's FY'06 Operating Budget, nondepartmental  
18 account for Working Families Income Supplement Montgomery County Earned Income  
19 Tax Credit program in the amount of \$1.15 million. The Management and Fiscal Policy  
20 Committee will take this up on December 12. Persons who wish to submit additional  
21 information for the Council's consideration should do so by the close of business,  
22 Wednesday, December 7th, there are no speakers for this item. Agenda Items 22 and  
23 23: This is a public hearing on the Subdivision Regulation Amendment 05-03 Adequate  
24 Public Facilities Validity Period, which would clarify the validity period of a finding of  
25 adequate public facilities by the Planning Board, and the process and standards to  
26 extend the finding of adequacy, would repeal certain obsolete temporary provisions  
27 regarding adequate public facility findings, and would update obsolete language and  
28 make stylistic and corrective charges. This is also a public hearing on Bill 28-05,  
29 Building Permits, Adequate Public Facilities, which would revise the standards and  
30 process for determining the adequacy of certain public facilities with respect to  
31 applications for certain building permits, shift certain authority to determine the  
32 adequacy of certain public facilities from the director of Department of Permitting  
33 Services to the Planning Board, repeal certain obsolete provisions regarding the  
34 process for determining the adequacy of certain public facilities, and generally amend  
35 the law regarding the issuance of building permits. A work session in the Planning,  
36 Housing, and Economic Development Committee will be scheduled at a later date. We  
37 have Karl Moritz, Bill Kominers, and Stacy Silber here to testify. Mr. Moritz please  
38 proceed, press the button and identify yourself for the technology.

39  
40 Karl Moritz,  
41 I am Karl Moritz, Montgomery County Department of Park and Planning, and I'm  
42 pleased to be here representing the Montgomery County Planning Board. When the



December 6, 2006

1 County Council adopted the Growth Policy in 2003 the Council directed the Planning  
2 Board to examine the pipeline of approved development and make recommendations  
3 for revising the time limits of a finding of adequate public facilities, including extension  
4 provisions. The Planning Board completed that work this summer and transmitted its  
5 recommendations to you in August. The Planning Board's review showed that the  
6 current time limits for a finding of adequate public facilities of no less than five years and  
7 up to 12 years is working. It is achieved its goal of a smaller, more active pipeline of  
8 approved development. The Board recommends changes to the extension provisions to  
9 remove outdated language, to clarify basic terms, and to treat residential and  
10 nonresidential development projects in the same way. In many cases recommendations  
11 address issues that arose as the Board conducted APF reviews of proposed  
12 development. Among the most substantive changes recommended by the Planning  
13 Board is in Bill 28-05 which addresses Adequate Public Facilities tests for recorded  
14 parcels. The Planning Board suggests that this APF test should be nearly the same as  
15 the test of its subdivision. And among the changes to accomplish that goal the Planning  
16 Board would make the final APF finding rather than the Director of the Department of  
17 Permitting Services. The Planning Board appreciates that the County Executive  
18 endorsed these recommendations in his comments on the growth policy this summer.  
19 On December 1st, the Planning Board reviewed Subdivision Regulation Amendment  
20 05-03 and Bill 28-05 and with relatively minor charges endorses this legislation. The  
21 Board opposes the amendment that would allow the extension of the APF finding for the  
22 Waters Landing Corporate Park. As always the Planning Staff are available to the  
23 Council to work on this legislation.

24  
25 Council President Leventhal,  
26 Thank you, Mr. Kominers.

27  
28 William Kominers,  
29 Good afternoon, President Leventhal and Vice-president Praisner, and members of the  
30 Council. My name is William Kominers, an attorney with Holland and Knight, I'm here  
31 today speaking as an individual on Subdivision Regulation Amendment 05-03. I want to  
32 comment on only a narrow aspect of this amendment. Section 350-20(c) subsections  
33 five through nine, which is on pages six through nine of the bill. This addresses a means  
34 by which the Planning Board can approve an extension to the validity period for  
35 adequate public facilities. The legislation makes no substantive changes in this  
36 provision. I suggest this provision should be expanded so as to allow the limited number  
37 of affected properties to continue to complete their build-outs beyond their current  
38 validity periods. The purpose of this section was to recognize that large-scale projects  
39 with substantial public infrastructure improvements have lengthy build-out expectations  
40 and should not be penalized for external factors which prevent completion during the life  
41 of their APF validity. If they have been diligently their approvals and have provided all  
42 the infrastructure necessary to accommodate their impacts they should be allowed

December 6, 2006



1 additional time to complete. The existing provision recognizes the changes in economic  
2 conditions that affect the nonresidential market. This provision allows projects to obtain  
3 extensions of the APF validity period based upon individual circumstances so long as a  
4 sufficient amount of the project has been completed and remains active. Several  
5 properties sought and obtained these extensions. These were large-scale  
6 nonresidential developments which had completed substantial infrastructure  
7 improvements but where cyclical impacts of the market had prevented the ability to  
8 complete the full build-out. One example of a project that secured such an extension is  
9 Shady Grove Life Sciences Center. The development approved at the Life Sciences  
10 Center has still not been completed. As time continues to pass and these projects  
11 continue to develop, but the regular market fluctuations and softens in the  
12 nonresidential market in the few years has slowed completion. The amount of time that  
13 seemed reasonable in the original extension provision has been overtaken by events.  
14 Development of these projects has been continued but the full development has not  
15 been completed. My suggestion today is that you add a provision which would allow an  
16 opportunity for further extension of these projects where they have diligently proceeded  
17 since the original extension. This could be measured by establishing a point at where  
18 only a certain portion of the project remains uncompleted. I'm not prepared to say today  
19 what percentage should be, but as with the current extension provision there could be  
20 tiers for the requirement based on the total amount of the original approval so that a  
21 structure related to very large projects could be utilized. As with the current provision  
22 the County should recognize the continuing value of these projects and the substantial  
23 time period required for completion. An integral element of the existing provision is the  
24 provision which states that all the infrastructure required has to have been completed or  
25 payments made for it. In this way the County is protected from the impacts of those  
26 projects because the infrastructure is already done. Therefore, it seems there's no  
27 detriment in allowing them to complete in the course of a market driven economy. I'm  
28 not proposing specific language at this time for this amendment, again, as with the  
29 percentage amount but I would propose to work with the Planning Board and Council  
30 staffs to try and craft appropriate language to address the realities of these projects  
31 which have obtained extensions and to assure that appropriate safeguards are in this  
32 place for this proposal. Thank you.

33  
34 Council President Leventhal,  
35 Thank you, Mr. Kominers. Ms. Silber.

36  
37 Stacy Silber,  
38 Good afternoon. Stacy Silber, a partner with the law firm of Holland and Knight. I'm  
39 testifying today to request that the Council make a minor amendment to Bill number 28-  
40 05 to exempt site plan applications for smaller projects that are currently being reviewed  
41 by the Montgomery County Planning Board, but are not yet approved. This  
42 accommodation is needed and appropriate in light of the current delays in the schedule

December 6, 2006



1 of Planning Board hearings, review of plans, issuance of opinions, and execution of site  
2 plan signature sets. Section 8-30 of the code currently exempts from APF requirements  
3 those developments that are considered "de minimis," that is less an increase of 5,000  
4 square feet. Site plans have been filed in good faith and are now being reviewed by  
5 Park and Planning staff under the current exemption. The proposed bill changes the  
6 definition of development and requires occupancy of buildings targeted for replacement  
7 for 12 months before building permit application. If this new bill is adopted without  
8 modifications those small projects that are currently under review will be substantially  
9 delayed, stopped because of unexpected costs that cannot be supported by the size of  
10 the project, and prejudiced by needing to comply with different standards. Because of  
11 staffing shortages, plans are taking longer to be processed by Park and Planning. As a  
12 result projects are submitted for review but are not proceeding to the Planning Board  
13 until months after the initial submittal. Once a plan goes to the Planning Board the  
14 Board still must issue its written opinion. It's been our experience that opinions are now  
15 taking five months from the date of the Planning Board action to issue. The site plan  
16 signature set will not issue until after staff issues the opinion, and as a result additional  
17 months are added to the process. Not until after this time can building permits be  
18 applied for and then received. The implication of this delay is that the typical 91 days  
19 given to make a bill effective and ensure a fair process for projects under review is not  
20 sufficient. To address this issue we ask that the effective date be modified in a limited  
21 manner to allow pending projects to proceed under the existing laws under which  
22 they're being reviewed. This can be accomplished by exempting site plan projects which  
23 have already been accepted by the Planning Board by the effective date of the law. To  
24 further limit the unattended impact of this bill we propose limiting this modification to  
25 projects that propose to increase replacement building areas by less than 1,000 square  
26 feet. This minor modification will ensure that applicants do not need to restart another  
27 process with Park and Planning and its smaller projects do not get penalized by  
28 unexpected costs that preclude development or delays beyond their control. As such we  
29 ask the limited effective date be added as follows, and it's in the testimony that I  
30 submitted. That the -- adding a new section that indicates: "This law does not apply to  
31 site plan applications accepted by Park and Planning prior to the effective date of the bill  
32 if the increase in replacement building area is less than 1,000 square feet, thank you.

33  
34 Council President Leventhal,  
35 Thank you very much. There are no questions.

36  
37 William Kominers,  
38 Mr. Leventhal, you didn't indicate when the record is going to close on this I believe.

39  
40 Council President Leventhal,  
41 Well, actually that wasn't in my script.



December 6, 2006

1 William Kominers,

2 Oh, okay.

3  
4 Council President Leventhal,

5 Where's our clerk?

6  
7 Council Clerk,

8 12-15...December 15th.

9  
10 Council President Leventhal,

11 December 15th, the record will close.

12  
13 William Kominers,

14 Thank you.

15  
16 Council President Leventhal,

17 Thank you. Okay, and that will take us to Agenda Items Number 24 and 25. This is a  
18 public hearing on Expedited Bill 37-05 Taxicabs Fees, which would authorize the  
19 County Council to set by resolution adopted after a public hearing certain taxicab fees  
20 charged by the Director of the Department of Public Works and Transportation, identify  
21 the circumstances under which this type of resolution takes effect, and generally amend  
22 the law governing fees charged to taxicab owners and drivers. This is also a public  
23 hearing on a resolution to set certain taxicab fees. A Transportation and Environment  
24 Committee work session is tentatively scheduled for December 8th, 2005. Persons who  
25 wish to submit additional information for the Council's consideration should do so before  
26 the close of this hearing. Before beginning your presentation please state your name  
27 clearly for the record. We have Director Art Holmes and Ms. Julia Lynch.

28  
29 Councilmember Praisner,

30 I gonna get coffee and I'll be right back. Do you want anything?

31  
32 Council President Leventhal,

33 No, I'm fine. Thank you very much. Director Holmes, please press your button and  
34 introduce yourself for the Pictron.

35  
36 Art Holmes,

37 Good afternoon, for the record I'm Arthur Holmes, Director of the Department of Public  
38 Works and Transportation. Thank you for the opportunity to address the Council. We do  
39 not support the T&E Committee's recommendations to reduce taxicabs fees for the  
40 industry or to amend the County code so that the Council would establish taxicab fees.  
41 During the past year the Council, in coordination with the Executive Branch,  
42 restructured the Taxicab Code after extensive discussion, considerable comment, and

December 6, 2006



1 input from County residents, citizens' organizations such as AIM and TSAC, taxicab  
2 drivers and current industry owners. The fees set forth in the Executive Regulation are  
3 essential if we are to implement the revisions to the Taxicab Code approved by the  
4 Council and signed into law by the Executive. The taxicab industry asserts that the fees  
5 we propose are a burden to them and the drivers, and that we set lower fees that are  
6 more in line with those in surrounding jurisdictions. However, the industry charges the  
7 highest taxicab rates in the areas to our drivers. Yet they do not propose to reduce  
8 those driver costs to a level similar to the leasing fees charged in neighboring  
9 jurisdictions. For example, leasing rates are 10% higher in Montgomery County than in  
10 Fairfax County and 100% higher than in Prince George's County. It should be noted that  
11 the majority of the increased fee revenue will come from business expansion, which will  
12 not cost the industry anything if they do not choose to apply for additional PVLs. During  
13 the discussions and deliberations leading to the code revision, the Executive Branch  
14 made clear that an increase in fees would be required in order to fund the initiatives that  
15 would improve customer service, increase competition, and provide the oversight  
16 required to monitor the conduct and performance of the taxicab industry. Regulation of  
17 the Taxicab Code should be funded by the industry, not subsidized by the taxpayers.  
18 The Mass Transit Fund is already severely stressed due to an increase in maintenance  
19 and operating costs, the needs to replace buses, and especially to meet the demands of  
20 the record ridership Ride On is experiencing. With regard to amending the code to  
21 authorize the Council to set taxicab fees, the Executive Branch is best suited to set the  
22 fee schedule in as much as we're charged to implement, execute, and enforce the code  
23 requirements. And we have the hands-on knowledge of the resources essential to carry  
24 out the provisions of the code. The industry has had an opportunity to improve service  
25 and they have avoided that responsibility by placing the blame for poor service on the  
26 Taxi Code revisions. The industry, not the taxpayers, should fund this customer service  
27 initiative. I urge you to support the fees as proposed by the Executive.

28  
29 Council President Leventhal,  
30 Thank you. Ms. Lynch.

31  
32 Julia Lynch,  
33 Good afternoon, my name is Julia Lynch, and I'm representing the Coalition for  
34 Competitive Taxicab Industry. Thank you for the ability to comment today on proposed  
35 Bill 37-05 and the associated fee resolution. CCTI believes passage of this bill and  
36 resolution is the most equitable way to resolve what has been a complicated and  
37 challenging policy decision. The fee structure proposed by the resolution still offers  
38 significant increases to the industry. The fees outlined in the resolution will fund much of  
39 the taxicab unit's substantially increased budget. Yet the fee increases should not  
40 compromise the industry's ability to dedicate resources to the operation and  
41 enhancement of the very passenger transportation services that the County's new  
42 legislation and regulations are intended to improve. In light of this, CCTI respectfully



December 6, 2006

1 requests that the Transportation and Environment Committee recommend to the County  
2 Council that the Council reject Executive Regulation 8-05, approve Bill 37-05 as  
3 proposed, adopt this fee resolution with three simple modifications. First include a PVL  
4 Fleet Transfer fee, the proposed fee structure suggests a \$2,500 transfer fee per  
5 passenger vehicle license. Though perhaps the reasonable processing fee for an  
6 individual ownership transfer, this fee would be incurred per PVL if any of the existing  
7 fleets were to be sold. The result is a sales tax totaling nearly \$150,000 for the potential  
8 of Action Taxi, nearly \$500,000 for the sale of Regency Taxi, and over \$2 million for the  
9 sale of Barwood Taxi. These fees would clearly discourage any potential buyer and  
10 completely restrict the future sale of any of these fleets. To avoid this restriction CCTI  
11 suggests that a PVL Fleet Transfer Fee be incorporated to the resolution's proposed fee  
12 structure on a sliding scale based on fleet size. Perhaps \$3,000 for fleet transfers up to  
13 50 PVLs, \$7,500 for fleet transfers between 50 and 100 PVLs, and \$15,000 for fleet  
14 transfers over 100 PVLs. Next, CCTI suggests that the application fee for Fleet PVL be  
15 clarified as a one-time fee per allocation, by renaming the fee "Application Fee For Fleet  
16 PVLs." CCTI understood from previous work sessions and discussions regarding  
17 Executive Regulation 8-05 that the Department's intent was to require only one  
18 application and application fee from a fleet, regardless of how many fleet PVLs a fleet  
19 was requesting since multiple applications and their processing would be repetitive.  
20 However, the title is somewhat ambiguous and should clarify the intent of the fee.  
21 Finally, eliminate the \$55 extension fee for a Driver Identification Card, since the new  
22 code went into effect the Department does not issue extensions on Driver Identification  
23 Cards. Even if the practice were to be reinstated CCTI believes that any costs to do so  
24 should already be covered by the \$75 annual identification card fee, or \$150 two-year  
25 identification card fee. The extension fee seems to be unnecessary and should be  
26 eliminated from the resolution. CCTI would also support any recommendation by the  
27 T&E Committee to reduce other driver licensing fees in an effort to encourage the  
28 completion of the driver licensing process by a driver candidate. CCTI urges the  
29 Committee to complete the recommendation to the Council on Thursday, December  
30 8th, so that action may be taken by the full Council on December 13th, before Executive  
31 805 becomes effective on the 14th.

32  
33 Council President Leventhal,  
34 Great, we have your written testimony. Mr. Perez.

35  
36 Councilmember Perez,  
37 I wanted to make sure, Mr. Holmes, can you stick around for a little while because we're  
38 going to have an issue involving the Parking Lot District and recently I've had a little  
39 difficulty making sure that our friends from the Executive Branch are over here, so I  
40 appreciate your sticking around.

41  
42 Art Holmes,

December 6, 2006



1 You will not have that problem with me, sir.

2  
3 Councilmember Perez,  
4 Thank you.

5  
6 Council President Leventhal,  
7 I just wanted to comment on this, you know, I'm sorry we've come to this pass. We want  
8 to work cooperatively with DPWT on this and all matters, we adopted this  
9 recommendations in the T&E Committee after three go arounds where DPWT sent us  
10 fees that we did not believe were sustainable. We don't relish the idea of having our  
11 staff work with your staff to write fees ourselves, generally, but in this case we just felt  
12 we were at an impasse. I also want to say to some folks in the audience I really do hope  
13 under Chairwoman Floreen's leadership over the course of the next year we can have  
14 another dialogue with variety of stakeholders, we appreciated the input of CCTI, we've  
15 appreciated the views of DPWT, but I hope we can also reinvigorate the cab driver's  
16 input and somehow try and get the voice of consumers into this dialogue, because  
17 we've heard some very serious concerns about the workability of the taxicab legislation.  
18 It's not, as I've said before, it's not the piece of legislation I'm proudest of that we  
19 passed in this term. And I think it needs some improvement and some review but we've  
20 got to hear from a variety of interested parties and so if we can -- if the chair of the T&E  
21 Committee can see her way to reconvening a dialogue on that thorny topic, I know it's  
22 not our favorite topic, but perhaps in 2006 we can return to it. Thank you very much,  
23 there are no other lights -- There -- there is another light, Chairwoman Floreen.

24  
25 Councilmember Floreen,  
26 Well, let me just say... Thank you Mr. President. We're catching up here. I wanted to  
27 thank everybody for their continued involvement in this and really convey to DPWT what  
28 the Council President has said. We're unhappy that we appear to be -- I don't think  
29 we're in loggerheads -- but in disagreement about how to handle this. And it's certainly  
30 been brought to our attention that there's a tremendous challenge in providing the high  
31 level of service that we want to make sure is provided to all residents who are  
32 attempting to take advantage of our taxi services within the County. So we'll commit to  
33 continuing to work with you on this, but we are going to work through this. We have this  
34 on for Thursday, do we not, Glenn, and then this would come to the full Council next  
35 week? We have endeavored mightily since this summer to bring this to a conclusions  
36 and it's unfortunate that we have not been able to finish this dialogue. But we'll keep  
37 working with you and certainly with the industry to make sure that what we're doing is  
38 reasonable and fair, and it may be that what we're doing is easing into the ultimate  
39 solution here. But it's appropriate to proceed carefully I think as we try to work this out.

40  
41 Art Holmes,





December 6, 2006

1 Before I leave the table, I'd like to again congratulate the President and to Ms. Praisner,  
2 congratulations. I had not had a chance to congratulate you.

3  
4 Council President Leventhal,  
5 Actually, you congratulated me this morning.

6  
7 Art Holmes,  
8 I said "again."  
9 Councilmember Silverman,  
10 We can't congratulate you enough.

11  
12 Council President Leventhal,  
13 I know, I know, I'm open, anyone wants to congratulate me, come on up.

14  
15 Councilmember Perez,  
16 The next panel.

17  
18 Council President Leventhal,  
19 The next panel will congratulate me.

20  
21 Councilmember Perez,  
22 Everybody.

23  
24 Council President Leventhal,  
25 Okay. Agenda Item 26, this is a public hearing on a special appropriation to the  
26 Maryland National Capital Park and Planning Commission FY'06 operating budget for  
27 the Development and Review Division in the amount of \$1.153 million. A Planning,  
28 Housing, and Economic Development Committee work session will be scheduled the at  
29 a later date. Chairman Berlage, please introduce yourself for the Pictron.

30  
31 Derick Berlage,  
32 Thank you, Derrick Berlage, Chairman of the Planning Board. Congratulations, again.

33  
34 Councilmember Praisner,  
35 Well, what about me?

36  
37 Derick Berlage,  
38 And to you? And thanks -- and thanks to Council President Perez -- former President  
39 Perez -- for his leadership in the past year as well. We're here today to request  
40 additional funding to address the development and review issues at Park and Planning.  
41 As you know, we have been working diligently for the last six months to identify and  
42 resolve many, many issues. In order to continue the reforms that are already underway,



December 6, 2006

1 and improve the process, additional staff and resources are needed and are needed  
2 immediately. We are requesting funding to help restore credibility to the process and  
3 create a Development and Review Division that is better staffed, better managed,  
4 technologically advanced, and accessible and responsive to the public. We agree with  
5 the OLO report which said our agency must involve the public from the inception to the  
6 completion of a project. We must meet the public's expectation for a high level of  
7 accuracy and responsiveness, ensuring that plans are consistent with one another from  
8 project plan through preliminary plan and site plan, ensure that all conditions are  
9 accurately captured in the subsequent documentation, and ensure that projects are built  
10 in full compliance with specified conditions. During the past six months, we have  
11 reallocated staff from our other divisions to work on all of these goals. However the  
12 reassigned staff must be returned eventually to their normal duties and additional staff  
13 hired to ensure that our progress continues. Current staffing levels at Development and  
14 Review are insufficient to manage the increasingly complex regulatory process. Indeed,  
15 we anticipate that the workload in Development and Review will increase by  
16 approximately 15%. In Fiscal Year 2006 the division has 31 positions, this request  
17 would bring it to 41. This request is for \$1,153,000 in Fiscal '06. We are working toward  
18 a goal of 100% cost recovery for staff costs associated with these activities. This will  
19 require increases in fees for regulatory applications which will be imposed in January of  
20 next year, in about a month's time. Additional costs may be incurred as the agency  
21 responds to the ongoing ideas we're getting from many sources. And so we want to be  
22 clear this is what we know we need now. There could be additional needs in the future.  
23 We're absolutely committed to reforming the Development and Review procedures into  
24 a system that is transparent, effective, and understandable. We must foster an  
25 environment that welcomes and encourages citizen input from the beginning. The  
26 Planning Board and the public must have confidence that the plans, proposal, and staff  
27 reports are accurate, and documented, and have been made available to all interested  
28 citizens. There are many steps involved with post Planning Board approvals of projects  
29 that must be improved as well. The Commission will be creating a special revenue fund  
30 to better track the fees and the other comment I would make is that we do need a one-  
31 time subsidy which we need in our reserves for Fiscal '06 but starting in '07 we believe  
32 that these additional costs can be self-supporting by fees generated by developers.

33  
34 Council President Leventhal,  
35 Thank you, Mr. Chairman. Mr. Silverman.

36  
37 Councilmember Silverman,  
38 Thank you, Mr. President. Mr. Berlage, I know that we're going to work together and  
39 spend some time when we get back on this supplemental appropriation and the  
40 legislation. But I am very concerned about at least one piece that's in here in terms of  
41 the request, because I think based on information that I've gotten literally in the last day  
42 or two, I think it's completely inadequate. Which is you have requested one additional

December 6, 2006



1 attorney position. I'm concerned about -- and we'll end up having a discussion in  
2 January, but I'm actually concerned about what's going on right now in terms of the next  
3 45 days. I have been advised that there is a backlog of upwards to 100 opinions which  
4 have not been produced. And it is also my understanding under the law -- and I didn't  
5 realize this until it was brought to my attention during discussions that I've had about my  
6 Workforce Housing Legislation -- that, in fact, if we put in grandfather dates that have to  
7 do with Planning Board approval, that approval legally is not until there is an opinion  
8 that has been signed off. So that's how all this sort of came to my attention as a -- out of  
9 the context of grandfathering. But I am very concerned about the issue of opinions  
10 being generated, as I'm sure you are, and I would respectfully ask you to take a look at  
11 this issue immediately. And if you need to be coming back to us as part of this  
12 supplemental, to be looking for more than one attorney position, then, you know, you're  
13 free to do that, and we'll have that discussion. But it seems like right now, and also  
14 given the fact that even if we authorize you to go ahead, you know, with this  
15 supplemental appropriation, it's not like, you know, you're going to hire somebody  
16 literally the next day. I would encourage you to move immediately in terms of whether  
17 it's contract attorneys or whatever is necessary to get that piece of the process moving  
18 through. It precludes -- as you know, it precludes the ability of anybody to appeal a  
19 decision until there's an opinion and there may be community folks that are looking to  
20 do that. But in the meantime, I think at least from what I understand, this is a very, very  
21 significant backlog which is a function not of the fact that your staff and your attorneys  
22 aren't hardworking, but there are just way too many opinions that now need to get done  
23 so I'd ask you to take a look at that immediately.

24  
25 Derick Berlage,

26 We appreciate your support in that, and you're absolutely right. We're focused. And  
27 we've heard the same concerns. In the last week or two we've transferred minute writing  
28 to opinion writing. The mediation event that happened in the Clarksburg case has  
29 allowed the legal staff to begin focusing back again on opinions. But, yes, we need an  
30 action plan and we need it immediately, and we're in the process of implementing that.  
31 We look forward to working with you to make sure we follow through.

32  
33 Councilmember Silverman,  
34 Thank you.

35  
36 Council President Leventhal,  
37 Thank you, Ms. Floreen followed by Mr. Knapp.

38  
39 Councilmember Floreen,  
40 Thank you. On that point, Derick, we did talk a little bit about this very issue yesterday  
41 and I -- I think it was -- yes!

December 6, 2006



1 Derick Berlage,

2 Yes, it was.

3  
4 Councilmember Floreen,

5 I've asked Mr. Faden to work with your legal Counsel about ways -- on ways to enhance  
6 the opinion process and we discovered that some of -- those conversations hadn't really  
7 begun. And I think we had some views as to ways that we might facilitate -- help you  
8 facilitate the efforts down there in a way that will achieve the desired goals with  
9 hopefully less staff time. Clearly the backlog thing that I've been aware for some months  
10 is something that needs to be straightened out. But I think there's some interpretations  
11 of the agency's obligations in terms of the extensiveness of these decisions that  
12 perhaps we can help you find a way through. So I look forward to working with you on  
13 all these staff requests. I did have a little different question for you though. As you know  
14 or maybe you see in our agenda, later on we're going to be talking about spending  
15 affordability guidelines and Ms. Praisner -- well, Ms. Praisner makes some  
16 recommendations with respect to the use of spending some of our excess funds in the  
17 reserve for I.T. areas. And it was not clear to me if there are significant I.T. expenses  
18 included in your needs. I know what...

19  
20 Derick Berlage,

21 The answer is "yes."

22 Councilmember Floreen,

23 ...we have in our Committee a report is a list of needs from different agencies, and I  
24 don't know if what you anticipate your need to be is on this list that we have on item 18.  
25 So I would ask that -- actually we've had the public hearing, but I would like to make  
26 sure that your needs are addressed in that discussion. And I know that with the  
27 management audits and reviews that you're subject to right now. You may have some  
28 additional recommendations. I honestly don't know, but it would seem to me that this  
29 might be a opportunity to address that. I would like to make sure we were considering  
30 Park and Planning's technology needs as we look at how we might best use some of  
31 that reserve money.

32  
33 Derick Berlage,

34 Well, we welcome that and thank you, because technology as very high-priority in our  
35 reform effort. One of these positions is for an information technology specialist, the  
36 professional contracting money, much of that is for professional assistance as well.

37  
38 Councilmember Floreen,

39 And the question would be one-time expenditures, and so...

40  
41 Derick Berlage,

42 Some of it's one-time and some of it's ongoing.

December 6, 2006



1  
2 Councilmember Floreen,  
3 Where you have one-time items, it would be certainly to the agency's advantage I think  
4 to make sure we're aware of the extent of that, your estimated expense if you can pull  
5 that together. So when the Committee takes this up again, they'll have that information if  
6 they don't already.

7  
8 Derick Berlage,  
9 Okay, it's on Circle five but, yes, we'll be looking forward to talking to you about it.

10  
11 Councilmember Floreen,  
12 Okay. Thank you.

13  
14 Council President Leventhal,  
15 Mr. Knapp.

16  
17 Councilmember Knapp,  
18 Thank you, Mr. President. I just wanted to when the Committee takes this up and when  
19 it comes back to full Council, to also get some sense of a workload analysis of, kind of,  
20 with their job descriptions. And I'm not questioning the fact that people are doing lots of  
21 stuff but I'd like to get some sense what type of capacity -- or how many jobs or projects  
22 are people working on currently and how will this alleviate that, and will this kind of  
23 spread that burden across, just to have a better sense. When DPS sent over stuff for  
24 their -- for supplemental for their additional positions there was a workload analysis. And  
25 I recognize that some of your projects don't -- some of your positions don't necessarily  
26 lend themselves to a direct, you're going to go from 50 site plan reviews to 27, or  
27 whatever. But to the extent that we...

28  
29 Derick Berlage,  
30 [INAUDIBLE] site plan.

31  
32 Councilmember Knapp,  
33 Right. Exactly. But to the extent that we get some sense of how people are working, to  
34 Mr. Silverman's point, as it relates to workload of the attorneys. But just to the extent  
35 that we can begin to quantify that and how we think this will lessen some of that burden  
36 for the existing staff, and so we can take that into account when we do the review.

37  
38 Derick Berlage,  
39 Certainly.

40  
41 Councilmember Knapp,  
42 Thanks.

December 6, 2006



1  
2 Council President Leventhal,  
3 Okay, that's it for that item. Thank you, Mr. Chairman. Okay, next is Agenda Item 27.  
4 Am I right? I'm sorry. Lost track. And that would be a public hearing on Expedited Bill  
5 40-05, Minority Owned Business Purchasing Program, Extension of Sunset which would  
6 extend the Sunset date for the Minority Owned Business Program and generally provide  
7 for a Minority Owned Business Purchasing Program. Action is scheduled following the  
8 hearing. There are no speakers. Agenda item 28 is a request for a water and...

9  
10 Councilmember Perez,  
11 Do you want to take action?

12  
13 Council President Leventhal,  
14 Oh, action, of course.

15  
16 Multiple Speakers,  
17 Move approval. Second.

18  
19 Council President Leventhal,  
20 Okay. This requires a roll call vote on Expedited Bill 40-05.

21  
22 Council Clerk,  
23 Mr. Denis.

24  
25 Councilmember Denis,  
26 Yes.

27  
28 Council Clerk,  
29 Ms. Floreen.

30  
31 Councilmember Floreen,  
32 Yes.

33  
34 Councilmember Knapp,  
35 Yes.

36  
37 Council Clerk,  
38 Mr. Knapp.

39  
40 Councilmember Knapp,  
41 Yes.



December 6, 2006

1 Council Clerk,  
2 Mr. Andrews.  
3  
4 Mr. Andrews,  
5 Yes.  
6  
7 Council Clerk,  
8 Mr. Perez.  
9  
10 Mr. Perez,  
11 Yes.  
12  
13 Council Clerk,  
14 Ms. Praisner.  
15  
16 Unidentified,  
17 Yes.  
18  
19 Council Clerk,  
20 Mr. Leventhal.  
21  
22 Council President Leventhal,  
23 Yes. Before we close the vote, do you want to let Steve Silverman know that we're  
24 voting, I think he's just standing...what's that?  
25  
26 Councilmember Perez,  
27 He's in the hallway. I think he's through the doorway.  
28  
29 Council President Leventhal,  
30 Yeah, I...  
31  
32 Councilmember Praisner,  
33 Well, he can be recorded as...  
34  
35 Council President Leventhal,  
36 I'm going to pull a Denny [Haster] here. Is he not around?  
37  
38 Unidentified,  
39 [INAUDIBLE]  
40  
41 Council President Leventhal,  
42 Well, I think he didn't know we were going to vote and he just stepped out for a minute.

December 6, 2006



1  
2 Councilmember Praisner,  
3 He can ask to be added or recorded.

4  
5 Council President Leventhal,  
6 Okay.

7  
8 Councilmember Praisner,  
9 He can ask to be recorded.

10  
11 Council President Leventhal,  
12 He's not coming in? All right. Okay. He'll be recorded later. Thank you. And that would  
13 then take us to Agenda Item Number 28. This is public hearing on a Water and Sewer  
14 Category Change Request for a public sewer in the Oxbridge Development at Bowie  
15 Mill Estates which is located on the east side of Muncaster Mill Road near the  
16 intersection with Bowie Mill Road. Action is scheduled following the hearing. There are  
17 no speakers and what is the recommendation of the T&E Committee?

18  
19 Councilmember Floreen,  
20 Yes, thank you, Mr. President. The Committee notes that this is what was -- this is  
21 consistent with what was recommended in the master plan and we recommend  
22 approval with the terms and conditions that we had understood to be the case and  
23 master plan. The sewer will be restricted to the area of clustered lots and conservancy  
24 lots and the remainder of the site will remain not eligible for sewer.

25  
26 Council President Leventhal,  
27 Okay, those in favor of the water and sewer plan category change as called for in the  
28 master plan will signify by raising their hands. It is unanimous among those present.  
29 Agenda Item 29: this is a public hearing on a special appropriation to the FY'06  
30 operating budget of the Department of Health & Human Services for the Child  
31 Assessment Center in the amount of \$108,770. We have four speakers, Kathy Lally,  
32 Carol Garvey, Linda Chase, and Julie Grohovsky. Kathy Lally is not here. Okay, please  
33 introduce yourself, state your name clearly for the record.

34  
35 Denise Ridgely,  
36 Good afternoon, I'm Denise Ridgely, the Director of Communications for the  
37 Montgomery County Collaboration Council for Children, Youth, and Families.  
38 Unfortunately our Executive Director, Kathy Lally, has been detained at a state  
39 association meeting discussing recodification of local management boards into state  
40 law. Ms. Lally has submitted written testimony fully supporting the special appropriation  
41 to support the operating costs of the Child Assessment Center in order to protect our  
42 most vulnerable residents, our children and youth. I would like to highlight a few key





December 6, 2006

1 points from Ms. Lally's testimony. First, the Collaboration Council has long supported  
2 the interagency work of the Child Assessment Center. In partnership with the Primary  
3 Care Coalition the Collaboration Council is able to successfully secure funding to  
4 develop a tracking database for the children served at the center. The work at the  
5 center is in sync with the mission of the Collaboration Council to improve well-being of  
6 children, youth, and families in Montgomery County through collaborative partnerships.  
7 Second, before coming to the Collaboration Council Kathy Lally worked for the National  
8 Association of Children's Hospitals in the area of child abuse prevention and treatment.  
9 She saw firsthand the severe shortage of doctors who specialized in child abuse and  
10 neglect. She also discovered via a member survey of children's hospitals that the  
11 number one challenge besides the shortages of doctors was the lack of financial  
12 resources. Third, Montgomery County has what so many other communities lack, a  
13 trained clinician to provide the evidence to support the correct diagnosis of child abuse  
14 and neglect or to refute the charge. The resources, such as this special appropriation  
15 that will support the work of the clinician and the staff that will manage the time-  
16 consuming interagency coordination and case management on behalf of children in the  
17 most vulnerable and horrific of situations. I am here today on behalf of the Collaboration  
18 Council and our Executive Director Kathy Lally to lend our full support for this special  
19 appropriations to fund the Child Assessment Center. Thank you.

20  
21 Council President Leventhal,  
22 Thank you. Dr. Garvey.

23  
24 Dr. Carol Garvey,  
25 Good afternoon, my congratulations, too to you, Mr. Leventhal, and Ms. Praisner. Thank  
26 you very much for the opportunity to speak to you today in support of the supplemental  
27 appropriation to the DHHS budget for the Tree House Child Assessment Center. You  
28 have my testimony and that contains more information than I can fit into my oral  
29 testimony. The County Council provided supplemental funding in June of this year for  
30 the first half of '06 and asked that the Center return at this time to request the funding  
31 needed for the second half of the fiscal year. The Tree House is a public/private  
32 partnership with DHHS and the Primary Care Coalition which provides expert forensic  
33 interviews and medical evaluations for alleged victims of sexual abuse, physical abuse,  
34 and severe neglect, as well as mental health screening and referral and victim  
35 advocacy. Our multidisciplinary team convenes child welfare, police, prosecutors,  
36 mental health, and medical providers to discuss evidence and determine the best  
37 course of action for alleged victims. Child abuse may affect many areas of life, such as  
38 school, employment, and relationships and result in increased risk for early pregnancy  
39 and criminal behavior. Common medical outcomes include a very high incidence of  
40 mental illness, including depression, suicide, and post traumatic stress disorder, and  
41 substance abuse with all of its associated medical disorders -- lung cancer,  
42 emphysema, liver disease, heart disease, and others. Aggressive and effective

December 6, 2006



1 intervention as soon as possible after abuse has occurred may mitigate some of the  
2 harmful effects and make the abused child less likely to be an abuser as an adult or a  
3 victim of intimate partner violence, two very common outcomes for adult survivors of  
4 child abuse. Much of the requested funding is to create a permanent  
5 nurse/administrator position as this role -- now we have someone on loan from DHHS --  
6 has proved essential. The rest is to contribute to a number of staffing positions including  
7 fund-raising, database manager, and administrative assistant. It's worth mentioning that  
8 we have raised outside funding and that's [Diane Dotson], who's right behind me, has  
9 worked on that, counting VOCA grants of \$175,000 for this fiscal year. And these have  
10 allowed to us hire a victim advocate, an on-site mental health therapist, and a database  
11 manager. We're making strides towards meeting the standards of the National  
12 Children's Alliance, the accrediting body for child assessment centers. And as our data  
13 show and I think you should have those in a larger packet, we are serving a growing  
14 number of children. Most importantly, in conclusion, Montgomery County has the  
15 opportunity to sustain an important service, a service which may conserve the County's  
16 legal resources in the short run and has the promise of reducing social, medical, and  
17 emotional costs in the long run. The advisory board of the Tree House urges that you  
18 support the modest supplemental appropriation being requested at this time.

19  
20 Council President Leventhal,  
21 Doctor Garvey, we've got to bring it to a close. Thank you. Laura Chase.

22  
23 Laura Chase,  
24 Thank you. And thanks for the opportunity to speak. My name is Laura Chase.

25  
26 Council President Leventhal,  
27 This is where you congratulate me.

28  
29 Laura Chase,  
30 Congratulations.

31  
32 Council President Leventhal,  
33 Let's be clear, there's rules, there's rules.

34  
35 Councilmember Floreen,  
36 We're subtle around here.

37  
38 Councilmember Praisner,  
39 This is the only day, so don't worry about it.

40  
41 Councilmember Floreen,  
42 This is -- the honeymoon.



December 6, 2006

1  
2 Council President Leventhal,  
3 I'm sorry. Start her clock again, please.

4  
5 Laura Chase,  
6 I won't need all the time anyway.

7  
8 Councilmember Silverman,  
9 Oh, and when George says something, I'll be holding up the applause sign.

10  
11 Laura Chase,  
12 Congratulations. I am here on behalf of Doug Gansler, the State's Attorney and his  
13 office and most specifically the Family Crimes Unit, the Family Violence Unit who is  
14 responsible for the prosecutions of child abuse cases in Montgomery County. I head  
15 that unit up and I also serve on the Board of Operations of the Child Assessment  
16 Center, the Tree House. We are in full support of any development of the Child  
17 Assessment Center and any expansion at this point. And the reason for that is that it  
18 has enhanced our prosecutions significantly. The family advocate and -- the victim  
19 advocate and family advocate have helped several of the families and the victims  
20 navigate the criminal system. Also the mental health assessment individual has also  
21 increased the comfort levels of most of the victims and gotten them referrals and gotten  
22 them ready for court. Probably most significantly at this point is Dr. [Boose], who has  
23 been extraordinarily helpful to our prosecutions because he is a specialist in child abuse  
24 and sexual abuse and physical abuse. His consultations provide us with very reliable,  
25 knowledgeable, and consistent information. His examinations and evaluations are state-  
26 of-the-art and he exemplifies best practices. His reports are meaningful and helpful in  
27 our prosecutions. He attends multidisciplinary meetings and provides us with advice on  
28 each and every case that we present at those meetings. His testimony in cases will  
29 prove to be invaluable. Fortunately because he's so competent most of the cases he's  
30 been involved in where there has been an indication of abuse, we have been able to  
31 successfully resolve by way of a plea. He helps us to resolve cases early on the strong  
32 medical evidence results in more pleas. Competent evaluations early on result in fewer  
33 cases being charged erroneously. It gives prosecutors clearer pictures early on  
34 regarding the evidentiary strength or weaknesses in cases.. He educates us on a  
35 regular basis as well formally and informally at these meetings. Just food for thought  
36 which I'm sure has some thought about it. He has been able to save the County a  
37 significant amount of money I would assume because he has enabled to us resolve our  
38 cases earlier. Without him some prosecutions could possibly or some police  
39 investigations could go much further than they would need to go since he can resolve  
40 the physical finding issues early on. His expert consultations are at no cost to us on a  
41 regular basis where as expert witnesses across the country that we consult with cost a  
42 lot of money by telephone, in person, or to come and testify in court. They do cost us a



December 6, 2006

1 significant amount of money so that would just be something to think about as well and I  
2 appreciate the opportunity to say that.

3  
4 Council President Leventhal,  
5 Thank you very much. Julie Grohovsky.

6  
7 Julie Grohovsky,  
8 Congratulations to the new President and Vice President.

9  
10 Council President Leventhal,  
11 Well done.

12  
13 Julie Grohovsky,  
14 Thank you for the opportunity to speak with you on this important issue. I'm Julie  
15 Grohovsky, I'm the Acting Secretary of the Advisory Board and my family and I live in  
16 Montgomery County. For over 11 years I was a prosecutor in D.C. where I specialized  
17 in prosecuting cases of physical and sexual abuse against women and children. In 1998  
18 I went to England and studied how sex crimes were investigated and prosecuted in the  
19 United Kingdom and I went to child assessment centers in London and in Belfast. I'm  
20 here you that child assessment centers work. And in my written testimony I talk more  
21 clearly about how they help with services to victims and case outcomes. What I'd like to  
22 tell you today as my experience as a former prosecutor in working with the Montgomery  
23 County CAC is that CACs are very important in stopping the cycle of violence. I've  
24 learned two things as a prosecutor, first that violence is like a disease, it is contagious  
25 and when it's left untreated it spreads. Unfortunately, as we know child victims of  
26 violence become violent adults or become as adults victims in violent relationships. We  
27 also know they are more likely to dull the pain of abuse with illegal drugs and alcohol.  
28 And the type of people who are drawn to this work are tireless and they work for far less  
29 money than anyone else would never expect. They can burn out, they suffer post --  
30 secondary post traumatic stress and usually by the time they burn out, they don't know,  
31 and it's too late. The amount of experience, dedication and commitment that walks out  
32 the door is literally irreplaceable. We cannot let this happen. We must support the staff  
33 of the Tree House with fair and adequate compensation. We must expand the Tree  
34 House to expand services to the citizens of this community. The way I got involved in  
35 the Tree House is I met Dr. Garvey about a year ago and when I learned that the Tree  
36 House in Montgomery County was behind child assessment centers in the District of  
37 Columbia, Baltimore, and other counties I was really surprised given the comparative  
38 wealth and size of this jurisdiction we cannot let this happen. I so I got involved, I was  
39 very impressed and am impressed with the work being done by the staff, the Advisory  
40 Board and other participants, but we need County Council and we need County  
41 Council's help. The child assessment center is small now, it is a sapling, so to speak,

December 6, 2006



1 we need to be a large oak tree with deep roots in this community, and that, quite frankly,  
2 is going to take money. \$108,000 I would submit to you is a bargain.

3  
4 Council President Leventhal,  
5 Thank you very much. Mr. Subin.

6  
7 Councilmember Subin,  
8 Congratulations, Mr. Leventhal.

9  
10 Council President Leventhal,  
11 Congratulations to you, too.

12  
13 Councilmember Subin,  
14 Thank you.

15  
16 Councilmember Silverman,  
17 I hope that doesn't apply to us.

18  
19 Councilmember Subin,  
20 I'm not taking any...

21  
22 Multiple Speakers,  
23 [INAUDIBLE]

24  
25 Councilmember Subin,  
26 I'm not taking any chances. I am very much in favor of these funds so your answer to  
27 this question doesn't have anything to do how I vote on this. You're looking to expand,  
28 and the issues that you're looking at are physical and sexual abuse. Is there a capability  
29 that there can be a look at psychological abuse or mental abuse in terms of children  
30 who are witnesses to domestic violence, not just victims?

31  
32 Dr. Carol Garvey,  
33 They're so closely related and children who observe violence often are the victims  
34 themselves and they don't happen to be the index case that's reported to a police. Often  
35 a mother is abused and no one asks whether the child is abused.

36  
37 Councilmember Subin,  
38 We're trying to figure out a way to do that.

39  
40 Dr. Carol Garvey,

December 6, 2006



1 And I feel we should work closely with the services going on at the Sheriff's Office. I  
2 think we have a lot of overlapping interests and problems, so, yes, I think we should be  
3 working together.

4  
5 Councilmember Subin,  
6 Have you been working with the Sheriff in terms of working with the youngsters who are  
7 identified through Safe Start?

8  
9 Dr. Carol Garvey,  
10 We haven't because they have, actually I think more -- they have more resources for  
11 providing therapy than the Tree House has. So if anything, we would love to have some  
12 their resources. We don't have as much. But we certainly have included Hanna  
13 Sassoon, she has sat with our Operations Committee at times and we try to stay on the  
14 same track. But I think you're right. It really should be a continuum.

15  
16 Councilmember Subin,  
17 I would hope there'd be a way that you could get that continuum going, because from  
18 what I'm understanding -- and it certainly is only my understanding at this point -- that  
19 many times it is very difficult to tell when the Sheriff or the police go in and the children  
20 are present whether the children have simply -- I'll put that in quotes -- been witnesses  
21 or are they witnesses and victims and if -- and because of the way the law is set up, the  
22 parent victim may be reluctant to report that the children have also been victims  
23 because there's a potential, the way the law is written, that she will then be charged with  
24 neglect for allowing this other abuse to go on. So we need some way to capture what  
25 has been happening, and I'm not confident we're looking -- we're using the universe of  
26 tools that we can.

27  
28 Dr. Carol Garvey,  
29 We are also -- we've been able to send a few patients each month to VASAP for their  
30 very excellent counseling services which have been in place for many years. And I think  
31 David Jones and Daryl Plevy, we keep them informed and they are trying to have much  
32 more of continuum of children's mental health services in general. So that's certainly a  
33 goal that we're striving for.

34  
35 Councilmember Subin,  
36 I'd also like to give Ms. Chase a greater universe of tools for when she goes into court  
37 and what she can use against these perpetrators.

38  
39 Dr. Carol Garvey,  
40 I'm sorry. You're asking...

41  
42 Councilmember Subin,

December 6, 2006



1 I mean, I'd like to be able to give Ms. Chase everything that we can when she goes into  
2 court...

3  
4 Dr. Carol Garvey,  
5 Right.

6  
7 Councilmember Subin,  
8 ...gets the conviction and goes, "Oh, by the way, your honor, here's what else has been  
9 going on in there" or "Here's some other crimes that we can prosecute directly related to  
10 the initial call." Thank you.

11  
12 Council President Leventhal,  
13 Mr. Perez.

14  
15 Councilmember Perez,  
16 Thanks to all of you for your testimony. It was very good. Ms. Grohovsky, I was curious  
17 in your experience in observing Tree House's elsewhere, what tends to be the  
18 organizational structure? Do they tend to be separate C3s, do they tend to be part of  
19 government? Do they -- what's your experience been and what do you think is the best  
20 structure in Montgomery given your vast experiences?

21  
22 Julie Grohovsky,  
23 Yes, It does depend. In D.C. what happens is, you know, the U.S. Attorney's office in  
24 D.C. handles the local crime, so there is a lot of money in the U.S. Attorney's Office, a  
25 lot of federal dollars. So in D.C. -- Safe Shores actually started within the U.S. Attorney's  
26 office, and then worked with the city government and is now, I think its own entity that  
27 has money from both the -- I guess it's now the Attorney General's Office in D.C. and  
28 the U.S. Attorney's office. The U.S. Attorney's office in D.C., unlike the State's  
29 Attorney's Office here, has quite an extensive victim assistance unit. And those victim  
30 assistance counselors, many who have Masters Degrees and many of whom are  
31 bilingual, work with Safe Shores --which is the equivalent of the Tree House in D.C. --  
32 and work with the victims as they go through the process. In London and in Belfast,  
33 they're really police functions. In fact, Belfast was the most impressive child assessment  
34 center I've seen, and quite simply it just had to do with money. There's a lot of money in  
35 the Belfast police force -- because of terrorism basically -- and there were some people  
36 in the police force that got together with community groups and structured a child  
37 assessment center that the medical, psychological, legal, all in one place, and a lot  
38 more counseling for families. Because I mean, we have to think about this. Most of the  
39 perpetrators in these cases are not going to go to jail for the rest of their lives and in  
40 family disputes they're going to end up living together after this. and to the extent that  
41 counseling can be had for the child and the entire family, it's very important. But in my  
42 experience, money has come almost solely from government entities. I don't know



December 6, 2006

1 about Baltimore and other Maryland counties. But, you know, like I said, I was very  
2 surprised that here the Tree House was not 100% supported by government money.  
3 And certainly, I think that is a goal that this County should work toward but in the  
4 meantime...

5  
6 Councilmember Perez,

7 That statement's slightly ambiguous, is the goal toward 100% County money or toward  
8 less reliance on County money?

9  
10 Julie Grohovsky,

11 I think the goal is toward County money, toward supporting... This is a very important  
12 function and it's very important for the future, it's very important for the rest of the  
13 community. When you look at the statistics that came out yesterday about violence in  
14 the Montgomery County schools, how many of those things have kids acting out what  
15 they've seen at home or things they've seen within their lives. We just don't know that.  
16 When someone's the victim of violence we don't know if that perpetrator's being violent  
17 because of their own experience as a victim of violence. So in my opinion, I think this is  
18 a function that the County should support 100% and to the extent that there are people  
19 like me in the community who are willing to fund-raise to add on to that, that's great. And  
20 I would do whatever I can to help the Tree House get grants to help us get money from  
21 community foundations, but we can't live like that. We have to hire people and say  
22 "You're going to have a job from now on and you're going to be paid by the County." Not  
23 "You're going to live you know this grant and then we'll try to get you another grant, and  
24 please stay and don't go away." They're going to come to Montgomery County, they're  
25 going to get good experience and then they're going to go places where they can get a  
26 government job and be paid, and we're going to lose them.

27  
28 Councilmember Perez,

29 Thank you. Carol, did you want to add on?

30  
31 Dr. Carol Garvey,

32 Yes, there are 21 child assessment centers in the state of Maryland, including ours.  
33 Three of those are in hospitals, Franklin Square, Johns Hopkins and University of  
34 Maryland. Most of the rest are in county government, DHR or a combination of DHR  
35 and police. Howard County has a joint DHR and police center, but they do have a  
36 501C3 that gives them the frills, basically so they gave money to develop a very child-  
37 center decorating scheme and that kind of thing. But I think just about all of them are  
38 really most or all funded by the government.

39  
40 Councilmember Perez,

41 Thank you. Very helpful. Appreciate your time.





December 6, 2006

1 Council President Leventhal,  
2 Great. I see that two more lights on. I do want to point out to my colleagues that this  
3 hour is late. And I do anticipate that this special appropriation will not have a lot of  
4 opposition, but I'll call on Mr. Andrews followed by Mr. Subin.

5  
6 Councilmember Andrews,  
7 Thank you all. Please give Dr. Boos our thanks for the great work he's doing on behalf  
8 of the County.

9  
10 Council President Leventhal,  
11 Mr. Subin.

12  
13 Councilmember Subin,  
14 In terms of the funding, I certainly have no objections to government getting in all the  
15 initial funding, doing what it needs for expansion, but I think by saying we ought to  
16 completely rely on government, we're missing one very huge piece. Who put those kids  
17 in that position? I mean, why can't we go to the courts and ask for restitution from the  
18 perpetrator. And say you know what, you did it to that kid, not only should you be locked  
19 up and thrown away forever, but you need to be paying for that therapy? I mean, what  
20 you're talking about -- I mean I don't think you're even talking about the extras to the  
21 501C3, Carol, because those kids are there. You are not adding to or taking away from  
22 the workload. You're just having the moneys for that therapy come in via restitution.

23  
24 Laura Chase,  
25 Mr. Subin, I can speak somewhat to that. Every case is different and there certainly are  
26 some of the perpetrators who have the means to pay. I think our Department of Parole  
27 and Probation has difficulty collecting their \$25 per month on their supervision fees on a  
28 significant number of cases. We do ask the judges to order restitution for moneys paid  
29 out for evaluation, assessment, or treatment when we have that information or can get  
30 that information. It's not always very timely. A lot of times because of the lack of  
31 services that have been in this County for kids, mental health services in the past, a lot  
32 of the kids weren't even in therapy by the time that we went to sentencing on a  
33 particular case. We can certainly try and recoup some money that way. I wouldn't -- I  
34 would not anticipate that that is going to pay salaries of many people...

35  
36 Councilmember Subin,  
37 No, I wouldn't think so. But I mean, if we can recoup some piece of that or count on  
38 some piece of that have coming in, I mean, even if you took what we give you as a  
39 steady and increase the budgets accordingly, if necessary, you are still adding these  
40 other pieces on to start doing research or bringing on more part-time people, I don't  
41 know. Whatever the universe is f things you can do. It gives you another source of  
42 income and more flexibility rather than relying just on us.



December 6, 2006

1  
2 Dr. Carol Garvey,

3 That would address the therapy issues and I think that's really important and really a  
4 good idea. It won't be a big help to us. We have -- we have been able through grants to  
5 fund 30 hours a week of mental health therapy. That doesn't begin to serve all the  
6 children who need it. So we're not paying for that therapy for the most part. We're trying  
7 Medicaid, anything we can get, insurance if it's there, pro bono, if we can get it, but our  
8 funds go towards the support of the physician, the nurse administrator, the other  
9 administrative personnel -- just the day-to-day functioning is the evaluation portion, but  
10 long term, I think that would be a very creative thing to do.

11  
12 Council President Leventhal,

13 Thank you very much and although I've been running around addressing other  
14 administrative matters I really want to thank all the witnesses, Ms. Grohovsky thank you  
15 for your service on the Board, we're delighted with the work the Tree House is doing,  
16 we're delighted to support it as it find its new structure and works toward a new  
17 relationship with County government. We've had a number of meetings in the HHS  
18 Committee to make sure it's on a solid footing. When we passed its budget in the  
19 spring, we knew that it was a little bit speculative because it was taking on some new  
20 burdens and reorganizing its structure, and reassessing its staff structure. And so there  
21 was not a complete surprise that we might have to come back halfway through the year,  
22 as we are doing now, and we'll continue to reassess what is the best way of meeting the  
23 needs. We know that the physical space is getting better. We know that the children are  
24 in a more attractive environment now and we know that there's still room for  
25 improvement. And Dr. Garvey, as always, thank you for being the mother of this and so  
26 many of critically important services, we appreciate your advocacy at all times. And  
27 Laura Chase, I really think Mr. Subin's point is well-taken and does not mitigate the  
28 need for this special appropriation, but in future let us see what we can do to work with  
29 the bench and see if we can perhaps incorporate some of these costs into various  
30 awards or damages or whatever it is we're able to find in future depending on the facts  
31 and circumstances of each case. But certainly if we can offset the County's cost in  
32 future for some of this treatment for these victims, that certainly is something we would  
33 hope the State's Attorney would assist us with to the extent it's feasible depending on  
34 the case. So with that, we're going to vote and the HHS Committee does recommend...

35  
36 Unidentified,

37 You've got to close the public hearing.

38  
39 Council President Leventhal,

40 Close the public hearing on item 29. This concludes item 29. Thank you. The witnesses  
41 are free to leave the table and the HHS Committee does recommend the appropriation  
42 of \$108,770 for the Child Assessment Center and those in favor significant in my by

December 6, 2006



1 raising their hands. That is unanimous, thank you very much. Okay, here's what we're  
2 going to do at this juncture. We have one more item on the agenda with a witness and  
3 we're going to take up that item out of order. That would be Item 31 the special  
4 appropriation for Care for Kids. Ms. Granthon, why don't you come up and I'll read that  
5 in a moment. Just to get a picture of the rest of the afternoon, we want to thank Steve  
6 Farber for the excellent memo he provided us with on economic indicators. We will not  
7 require an oral presentation from him this afternoon. So that agenda item will not come  
8 up this afternoon, but we appreciate the memo and we've reviewed it and it provides  
9 helpful data, very promising data, as we look forward to the next several months. After  
10 we take up Agenda Item Number 29, we'll move ahead on the agenda to go to the  
11 Parking Lot District legislation so we can let our friends from DPWT get back to their  
12 important duties, and then we'll conclude the rest of the public hearing. We're now on  
13 Agenda Item 32. This is a public hearing on a special appropriations, the FY'06  
14 operating budget of the Department of Health & Human Services and Montgomery  
15 County Public Schools for pre-kindergarten services -- I'm sorry, no, wrong item. Got a  
16 lot of these here.

17  
18 Councilmember Silverman,  
19 Can I do a -- while you're waiting for this.

20  
21 Council President Leventhal,  
22 Can you do a what? Oh, yeah, go ahead.

23  
24 Councilmember Silverman,  
25 I'm sorry. Thank you, Mr. President. I had to be-- step out of the room temporarily I'd like  
26 to be recorded in the affirmative on Expedited Bill 40-05, Minority Owned Business  
27 Purchasing Program, thank you.

28  
29 Councilmember Subin,  
30 I'd like to do the same.

31  
32 Council President Leventhal,  
33 Very good, Mr. Silverman and Mr. Subin would like to be recorded in the affirmative.

34  
35 Councilmember Subin,  
36 I was in the building, I was in the building.

37  
38 Council President Leventhal,  
39 Yes, okay. Agenda Item 31, this is a public hearing on a special appropriation to the  
40 FY'06 operating budget of the Department of Health & Human Services for the Care for  
41 Kids Program in the amount of \$422,110, action is scheduled following the hearing. We



December 6, 2006

1 have one witness, Miryam Granthon, please state your name clearly for the record and  
2 for the Pictron system.

3  
4 Miryam Granthon,

5 Okay, thank you. My name is Miryam Granthon, I'm one of the Commissioners for the  
6 Montgomery County Commission on Health. Thank you, President Leventhal and Vice  
7 President Praisner. I'm here today at request the of the Chair for the Commission on  
8 Health [Okeena Christian-Dark.] She apologizes that she and the Vice President, Dan  
9 [Moskowitz], both had conferences and could not attend in person, but they wanted me  
10 to represent the consensus of the Commission on Health in support for the  
11 supplemental funding for Care for Kids. On October 20th, 2005, the Montgomery  
12 County Commission on Health met and discussed this issue at our regular monthly  
13 meeting. The members of the Commission expressed deep concern about the closing  
14 of admissions for Care for Kids on November 1st, 2005, and the need, thereafter, to  
15 have a waiting list for this program. This program, as you know, is for children at or  
16 below 250% who are Montgomery County residents -- 250% below poverty who are  
17 Montgomery County residents and have no other means of health coverage. We  
18 recognize this program that provides important primary care, prescriptions, and limited  
19 dental care for these children will be cut because there is a lack of funding. According to  
20 Dr. Ulder Tillman, the Montgomery County Public Health Officer, if this program is not  
21 funded, then an estimated 1,200 newly uninsured children would not receive services.  
22 Recognizing that access to health care for children is good public health policy, the  
23 Commission on Health does not support the cutting of health care for children which  
24 may have potentially both short term and long term harmful health outcomes. Nor is it  
25 proven to be cost-effective public health policy. Without access to preventive care sick  
26 children go to their emergency rooms for basic primary care. This cost will be ultimately  
27 passed on to the other "Marylands" through higher health costs and insurance  
28 premiums. Please understand we have at the Commission on Health empathize the  
29 need to stay in budget but the Commission on Health supports the leadership of the  
30 Councilmembers in support of the supplemental funding for Care for Kids. I've provided  
31 15 copies as requested of the October 31st memo prepared by the Commission on  
32 Health in support of the supplementing Care for Kids as submitted via the Commission  
33 on Health liaison, Joan Planell. Thank you.

34  
35 Council President Leventhal,

36 Thank you very much, Miryam. This concludes the public hearing. We will now vote on  
37 the special appropriation for Care for Kids. I've already spoken extensively to this  
38 matter, and it need not be repeated, although we are really, really, really unhappy with  
39 the State of Maryland on this matter. And very, very disappointed that once again we  
40 need to spend County dollars for what should be a state expenditure. Those in favor of  
41 the special appropriation will signify by raising their hands. It is unanimous among those  
42 present. Okay, we're now going to take up Bill 33-05, the Silver Spring Parking Lot



December 6, 2006

1 District. And we will ask General Holmes and Dr. Orlin to join us here at the table. We  
2 have a memo from Dr. Orlin with some information from the Executive Branch, the  
3 Executive Branch has requested that we put this matter over until January so that it can  
4 consult with Bond Council. Chairwoman Floreen.

5  
6 Councilmember Floreen,

7 Thank you. Well, as you will all remember, we were sort of taken aback this morning by  
8 last minute request to delay action on the extension of this Silver Spring Parking Lot  
9 District. You should have a memo from Mr. Orlin in front of you saying, well, on the one  
10 hand, and on the other hand. And Glenn can go over that with you if you wish. I think  
11 what we wanted to do primarily this afternoon is to understand how critical this was from  
12 DPWT's point of view in so far as it hadn't been raised before the T&E Committee when  
13 we last spoke. Mr. Holmes may be you could explain to us why we are -- shouldn't be  
14 acting on this today.

15  
16 Art Holmes,

17 Well, first, I'll take full blame for the lateness of the correspondence, because when we  
18 talked with counsel and talked with staff I thought it had merit and we should bring it  
19 forward to the Committee. So that is the reason why we brought it to the Committee. It  
20 has -- we think that it may have implications on future bond issues. And we would like  
21 for that particular -- to be given that particular time to look into this. The other thing is  
22 I've had personal talks, telephone and person-to-person with Mr. Myzel, and there  
23 doesn't seem to be a real hurry to build anything there, so asking for a delay I didn't  
24 think was that much out of question. That's me. That's -- you shot the messenger this  
25 morning. I'm the guy that you shoot.

26  
27 Councilmember Floreen,

28 Well, nobody was intended to do that, we were just, as you know -- this was an  
29 unexpected request.

30  
31 Art Holmes,

32 As I said it did come up late and those were my reasons.

33  
34 Councilmember Floreen,

35 If you note, my recommendation to my colleagues is, and we haven't talked about this in  
36 Committee, of course, Mr. Councilmember Perez may have some views on this, but I  
37 would recommend if we were to consider deferring this, which -- out of respect for Mr.  
38 Holmes I would recommend that we do -- to take it backed up on our first session  
39 without the need for it going back to the Committee, assuming we're just talking about  
40 some language changes in the actual bill before us.

41  
42 Council President Leventhal,

December 6, 2006



1 Mr. Perez.

2  
3 Councilmember Perez,

4 Art, we've been talking about this for over a year. I've had -- we asked the County  
5 Executive's Office, Mr. Pasternak, when they were doing a review of the Parking Lot  
6 District, they had a consultant coming in, we explicitly asked that it be put on the table of  
7 the configuration of the Parking Lot District. The consultant did his work. We were not  
8 operating in any secrecy, and we put this forward, and I mean, you look at a photograph  
9 of this, and it is abundantly clear that this portion of land that abuts the Silver Spring  
10 Metro was originally part of the Parking Lot District, was removed from the Parking Lot  
11 District, I believe, in 1981 and should be returned to the Parking Lot District. That is  
12 what our goal has been throughout. This whole issue of consulting with Bond Council  
13 strikes me -- and for reasons that all together unclear to me -- there have been a  
14 consistent passive-aggressive resistance to this from the Executive side. I respect that  
15 we sometimes agree to disagree. I've never quite understood what the policy objection  
16 has been. At one point it was articulated as maybe a fiscal impact. I think that is  
17 dubious, and I think Dr. Orlin pointed that out last week, speculative at best, and the  
18 Committee unanimously agreed to move forward this week. And then we have this  
19 Bond Council issue. I mean, I'd be willing to put it off for a week, but I know how I'm  
20 going to vote. I'm pretty confident of how the Council is going to vote and you don't need  
21 five weeks to figure this out. This ain't rocket science.

22  
23 Art Holmes,

24 Sir, I'm not -- how will I say it. -- I'm not knowledgeable enough in terms of what the  
25 Bond Council needs the -- if you give us a deadline we'll have to come in at that  
26 particular deadline. We asked for the month. If you can, give it to us. As I said, I am the  
27 one who indicated that we needed the additional time. And that was because of advice  
28 of counsel. Whether that advice was -- whether I didn't interpret that advice right, that's  
29 another thing. As far as talking about this annexation, yes, as I indicated, I've been  
30 talking to Mr. Myzel since I've been in DPWT about this and we've agreed to disagree.  
31 With respect to the actual legislation, I believe that came over about a week ago, and  
32 that's when we started to look at it with some seriousness. But, you know, if the Council  
33 says a week or 10 days, we take whatever the Council says.

34  
35 Councilmember Perez,

36 I'm happy to put it off for a week as a sponsor of the bill. I think a week as ample  
37 amount of time. This isn't rocket science to figure this out.

38  
39 Art Holmes,

40 We'll do the best we can. I can't speak for the Bond Council. I'll will certainly relay the  
41 restrictions you know which we're working.



December 6, 2006

1 Council President Leventhal,  
2 Well, Ms. Praisner, go ahead.

3  
4 Councilmember Praisner,  
5 Well, having I want acted with Bond Councils before and having gone through the  
6 process of going to bond-rated agencies, I'm not clear I understand how it affects future  
7 bonds, and I'm not sure how it affects existing bonds, because it doesn't change the  
8 payment out or any of the substantive structure of the bonds that exist. But those are  
9 the two questions if there is a question for the bond-rating agency is to what extent is  
10 there a concern regarding current bonds? How are they affected or not affected by this?  
11 I don't believe they are.

12  
13 Art Holmes,  
14 What was...

15  
16 Councilmember Praisner,  
17 And then the question of future bonds. Obviously future bonds, you've got more territory  
18 that you're covering, but to the extent that we've said within the language of the bill that  
19 this does not provide an obligation for an additional garage, et cetera, there's no -- I'm  
20 having trouble understanding the burden that might be a problem as far as future bond  
21 holders. So there are issues with the parking district in Silver Spring generically,  
22 obviously, generally from a revenue perspective and will be over time. But those are the  
23 two questions that I would imagine we'd want an answer from the bond-rated agency,  
24 and I'm not sure they're generic questions, almost, not specific questions. And I can't  
25 imagine that you can't get a turnaround of one week in answering those questions.

26  
27 Council President Leventhal,  
28 Okay. So let's try and get an answer back from Bond Council as quickly as we can.

29  
30 Art Holmes,  
31 Will do.

32  
33 Council President Leventhal,  
34 And that will take this item off our agenda for today. And that...

35  
36 Councilmember Perez,  
37 I hope we can put it back on for a week from now.

38  
39 Council President Leventhal,  
40 And the goal would be that we'd put it back on in a week.

41  
42 Art Holmes,

December 6, 2006



1 Okay.

2  
3 Councilmember Perez,  
4 Thank you, Mr. Holmes, we appreciate your being here.

5  
6 Council President Leventhal,  
7 So thank you all, gentlemen, from DPWT. Go back and -- end gridlock. Okay, that takes  
8 us back...

9  
10 Councilmember Praisner,  
11 Time's running out.

12  
13 Councilmember Perez,  
14 Yeah.

15  
16 Council President Leventhal,  
17 That takes us back to the public hearing. We're now on Agenda Item 30. This is a public  
18 hearing on a resolution concerning the Accelerant Detection Canine Program which  
19 would approve a memorandum of agreement...

20  
21 Multiple Speakers,  
22 [INAUDIBLE]

23  
24 Council President Leventhal,  
25 that would allow the County to participate in the Accelerant Detection Canine Program  
26 administered by the U.S. Department of Justice, Bureau of Tobacco Alcohol Firearms  
27 and Explosives. Action is scheduled following the hearing. There are no witnesses. Do  
28 we have a Public Safety Committee recommendation on this?

29  
30 Councilmember Praisner,  
31 No.

32  
33 Councilmember Floreen,  
34 Move approval.

35  
36 Councilmember Praisner,  
37 Second. Moved and seconded.

38  
39 Council President Leventhal,  
40 Okay. Whatever. Those in favor will signify by raising their hands. It passes  
41 unanimously.





December 6, 2006

1 Councilmember Floreen,  
2 We're all for dogs.

3  
4 Council President Leventhal,  
5 Agenda Number 31, we just did. Agenda Item Number 32. This is a special hearing on  
6 the special appropriation to the FY'06 operating budget of the Department of Health &  
7 Human Services and Montgomery County Public Schools. For pre-kindergarten  
8 services in the amount of \$152,570. Action is scheduled following the hearing, there are  
9 no witnesses. Ms. Planell, maybe you can explain, in brief, to the Council, what we're  
10 voting on here.

11  
12 Joan Planell,  
13 There are two supplemental special appropriations to MCPS and the DHHS for a pre-  
14 kindergarten curriculum training program. It is for those providers that are not in the  
15 MCPS school system who are teaching our four-year-old children and helping to bring  
16 those providers to a higher level in what they teach day in and day out for the children.  
17 The actual dollars on the first page are backwards. The \$77,780 would go to DHHS and  
18 the \$74,790 would go to MCPS.

19  
20 Council President Leventhal,  
21 Ms. Praisner.

22  
23 Councilmember Praisner,  
24 Well, I guess the Health and Human Services Committee is recommending approval.  
25 And since this is a for the rest of the year issue, I am less uncomfortable with going  
26 forward with it, but I am uncomfortable with going forward with it or making some  
27 assumption that we're permanently looking at this structure or this model in the long run.  
28 And I will make a couple of comments. On the one hand, the proposal has us giving  
29 \$6,212 to HHS, which falls under on Circle 12 the child care MCPS pre-kindergarten  
30 curriculum and the other chart, the cohort 3, I assume that's for the noncurriculum  
31 services for that -- for those individuals, the HHS amount that shows up in that category,  
32 cohort 2 category.

33  
34 Joan Planell,  
35 The cohort 2 is the cohort that MCPS is going to be training.

36  
37 Councilmember Praisner,  
38 I understand but it shows \$6,212 of HHS money is in cohort 2.

39  
40 Joan Planell,  
41 I see that. I don't know why that's in that column.

December 6, 2006



1 Councilmember Praisner,  
2 While you -- I guess that relates to some of the...

3  
4 Unidentified,  
5 Oh.

6  
7 Councilmember Praisner,  
8 ...other supports that are coming from the Department of Health and Human Services.  
9 Let me make a couple of comments. It is great sense, makes great common sense, to  
10 have our childcare providers appropriately train to provide the components of education  
11 such that our students, when they enter school are ready to learn and are at a level that  
12 ensures that they can maximize the success of their activity within the schoolhouse  
13 door. I have with Secretary Grazmik and others had an opportunity to visit at least one  
14 program in Virginia that I hope will become a model for our center-based child care  
15 programs as it relates to outcome measures. I am not convinced that we automatically  
16 need to use any specific curriculum. It is the outcome measures that we're looking for  
17 that have children ready for school. And the specific outcome measures can be  
18 achieved in a variety of ways. And when we look at the state's requirements under the  
19 Thornton Funding for pre-k programs, they are definitely outcome measure driven, not  
20 specific curriculum driven. And to the extent that we look at the development of our  
21 childcare providers and provide support to them such that they can achieve the  
22 outcome measures we want, I am not interested in the degrees or the qualification  
23 initials that may follow the provider. I'm more interested in the outcomes that occur  
24 within that setting. And that means that I think there is room for significant discussion as  
25 to the model that we use. I have seen models that are so successful that the young  
26 children who enter the program do not require ESL classes when they exit the program  
27 and these are pre-k programs provided by non-licensed -- by licensed but not certified  
28 providers as long as they are supervised or have the benefit of interaction with  
29 individuals who have the background and experience to support them. The model that  
30 we have here has costs that when you look at the numbers, the comparisons are almost  
31 twice as much dollars for half as many people, potentially, or the same amount of  
32 dollars for half as many people, children. So I hope that everyone who gets any of the  
33 appropriation this year understands it's only for this year. And that we look very  
34 rigorously at this. I am working with others. I know my colleagues are -- especially Mr.  
35 Subin, our strong tourist of this, I think it's a continuation of a variety of things that all of  
36 us are interested in. And I would invite folks who want to at some point off our calendar  
37 schedule come with me to Alexandria. I'll treat you lunch and show you something that  
38 is unbelievable to see from a healthy kids, terrific outcomes, and a model we need to  
39 look at. So I'll support the supplement with kind of content.

40  
41 Council President Leventhal,  
42 Mr. Perez.



December 6, 2006

1  
2 Councilmember Perez,  
3 Oh, I'm so sorry. Force of habit, Mr. Leventhal. I apologize.

4  
5 Council President Leventhal,  
6 Okay, I'm going to vote for the supplemental on the HHS Committee in conjunction with  
7 the Education Committee reported it out favorably. I share Ms. Praisner's reservations  
8 about this whole approach. I think we're calcifying layers of bureaucracy with respect to  
9 the provision of childcare and pre-k services that are beyond reason. We -- consistently  
10 this Council has been pushing HHS and MCPS to investigate community based models  
11 that are in use in other jurisdictions and consistently we keep hearing "Well, no, we'll do  
12 it better if you just give us a whole lot more money." And we had this discussion in  
13 Committee and I'm not going to raise my hand and vote against childcare and vote  
14 against pre-k services, but I do so with reservation. I vote for it with reservation. I don't  
15 think we're headed down the right road here, and I don't think we're pursuing the best  
16 model. So, you know, I hope some kids get the benefit. I hope some pre-k teachers get  
17 well trained. I hope it's a good outcome for everybody, but we'll continue to raise some  
18 question about cannot we do this on a community-based model rather than funneling  
19 everything through MCPS. So I vote for this with reservation. Mr. Subin.

20  
21 Councilmember Subin,  
22 I appreciate the remarks of the President and Vice President on this. There may well be  
23 a better way to do it that gets more numbers. We ran into a problem what was it, two  
24 years ago at this point, in terms of Head Start and other moneys, and how many  
25 youngsters we were going to serve. I don't know that we necessarily need to go to  
26 Alexandria. I would be happy for Ms. Praisner to take me to lunch right here.

27  
28 Councilmember Praisner,  
29 I want you to see those the program in Alexandria.

30  
31 Councilmember Subin,  
32 But if we could -- if we could see those models in the joint Committees and we start to  
33 compare, we got something going when we needed to and we've been moving along.  
34 But if there's a better way to do it that's going to get to more numbers, let's go for it. So if  
35 you all could bring those in at appropriate time, just have a Joint Committee meeting,  
36 budget process might be the time to do that.

37  
38 Council President Leventhal,  
39 Mr. Perez, followed by Mr. Knapp.

40  
41 Multiple Speakers,  
42 [INAUDIBLE]



December 6, 2006

1  
2 Council President Leventhal,  
3 What that little button does, is it turns on your light that says "Request to Speak."  
4 Councilmember Perez,  
5 I simply wanted to associate myself. Asked and answered, and we had this  
6 conversation in the Committee and I concur with your comments. I did it with  
7 reservation, as well, and I continue to vote for it with reservation.

8  
9 Council President Leventhal,  
10 Mr. Knapp?

11  
12 Councilmember Knapp,  
13 I concur as well. But to Ms. Praisner's point and Mr. Subin's point we actually did put  
14 money into a grant that hopefully at least will begin the first step in seeing what that  
15 model is locally. And I don't know that necessarily -- we may or may not find that that  
16 this will be the best model for how to deliver it, but that was the idea, was to see some  
17 outcomes from local organizations to see if we can mirror what's being done in  
18 Alexandria. And if we can, great, let's look to expand that. And if we can't, we ought to  
19 be looking in other places for models. That was the idea with money that we set aside in  
20 the grant program in the first place.

21  
22 Council President Leventhal,  
23 Okay. Those in favor will signify by raising their hands. It passes unanimously. And we  
24 are now going to have a presentation by the Committee to Study Compensation of  
25 County Executive, County Council, Sheriff and State's Attorney. Thank you for being  
26 here and thank you for your good work. Who is going to speak on behalf of the  
27 Committee?

28  
29 Mark Aron,  
30 I am.

31  
32 Council President Leventhal,  
33 And you are Mr. Aron?

34  
35 Mark Aron,  
36 Yes.

37  
38 Council President Leventhal,  
39 Very good, will you please press your button and identify yourself for the Pictron  
40 system.

41  
42 Mark Aron,

December 6, 2006



1 My name is Mark Aron, I'm Chairman of the Committee. We're pleased to present our  
2 report to the Committee. We've worked hard. We didn't keep will sheets but I think we  
3 probably put in somewhere between 150 and 200 hours and all the members of the  
4 Committee had a significant role both in reviewing the materials and in writing the  
5 report. And so the first thing I want to introduce is the members of my Committee, I'll do  
6 it by alphabet, [John Goen] -- he's a two-timer, he's done this twice -- [Bill Goodwin],  
7 [Donna Hanor] -- who cannot be with us -- [Laura Lodge], and [Margaret Ann Strand],  
8 and Yale Wiesberg who served as our Vice Chairman. We'd also like to thank Jean  
9 Arthur and [Carol Edwards], who fed us well and gave us tremendous help. This is  
10 unanimous report, it's also a bipartisan report. Given what's going on in that city to the  
11 south we wanted to sort of bottle the air in our Committee meetings to see if it might be  
12 helpful to getting some resolution on some of their problems. We looked at a lot of  
13 materials what other counties pay for comparable positions, what other jobs are paid for  
14 in this County and in the federal service. These were helpful, but, you know, counties  
15 are different and Montgomery County is very much unique. We looked at questions of  
16 fairness. We looked at -- I think we were bothered by the question of whether we were  
17 paying enough so that everyone would -- we're paying enough so that, you know,  
18 people would feel good about running for these offices, especially those people with one  
19 salary or with children who are in college or whatever, with limited means. We also tried  
20 to be sensitive, we thought, to the political climate. In the end we had to use our  
21 judgment but we concluded that the citizens of this County are getting good value for  
22 the money that they pay, both for the County Council and for their Senior Executives.  
23 And we also concluded and I'll briefly summarize our recommendations that the salaries  
24 should be raised. The summary of our recommendations are on page 6 and 7, I think  
25 you probably have the report. I'll just go briefly through them and then you can ask our  
26 esteemed group here any questions you might have. In terms of the County Executive,  
27 the current salary is \$158,000. We would bring it up at the ends of four years through  
28 essentially equal increments to \$175,000. In terms of the County Council, I'm sure you  
29 know your own salary, but it's \$87,000 and change and we would increase that in the  
30 next....

31  
32 Multiple Speakers,  
33 [INAUDIBLE]

34  
35 Mark Aron,  
36 Oh, I'm sorry, I'm sorry: \$79,000. I'm reading too fast here.

37  
38 Councilmember Silverman,  
39 Lunch is on George. Congratulations.

40  
41 Mark Aron,  
42 Excuse me, \$79,000...

December 6, 2006



Multiple Speakers,  
[INAUDIBLE]

Council President Leventhal,  
I haven't gotten my first paycheck yet. I just got hired this morning.

Mark Aron,  
...and the Council President receives \$87,000 and something. And we would raise those salaries for the first two years in \$5,000 increments for each year, the cost-of-living would be suspended for those two years, and then thereafter there would be a cost-of-living increase for the Council. For the Sheriff, the current salary is \$112,000, approximately, and we would raise that salary to \$125,000. No cost-of-living increase in the first year, and thereafter there would be a cost-of-living increase. And for the State's Attorney, the... I'm trying to...

Unidentified,  
It's \$142,000.

Mark Aron,  
\$142,000.

Unidentified,  
And it'll raise in January...

Mark Aron,  
Yeah, with a raise, and then to \$149,000 in January, I guess it is, it's a little -- slightly different. And that salary would be increased to \$160,000 for the first year with no cost-of-living increase, and thereafter there would be a cost-of-living increase. And those are our recommendations. I know it's been a long afternoon so I'll just open it to questions.

Council President Leventhal,  
Thank you all very, very much for your service. This is somewhat obscure panel probably to most people in the County but I know all of you know that it is very important to good public policy and good governance, and certainly important to all of us. Mrs. Praisner.

Councilmember Praisner,  
Yes, I want to thank you. And I want to thank you very much for the comments that you make for the variation in functions among counties across this country. It's hard -- in the Washington Metropolitan region, you've got counties, all counties basically -- that have significant and broad responsibility unlike most counties across this County because



December 6, 2006

1 especially in the education area, most school boards, school systems are very small  
2 and are fiscally independent and therefore, don't have that relationship. We even have  
3 counties here in this region like in Prince George's County that run healthcare systems  
4 and in some counties in this Country that is a major and perhaps maybe an only  
5 responsibility that perhaps a an airport that counties might have. Public safety is very  
6 different and I could go on and on. I had a couple of questions though. And I wanted to  
7 be clear especially for the television audience. Obviously you're talking about the next  
8 Council.

9  
10 Mark Aron,  
11 Yes.

12  
13 Councilmember Praisner,  
14 And you're talking about the next County Executive. After the election we go through  
15 this process of recommendations for the subsequent Council and Executive and Sheriff  
16 and States Attorney. The recommendations as far as the Council with the flat amount  
17 and then reverting to the CPI, I'm assuming that I think that recommendation also  
18 carries a continuing CPI associated with it, because you only talk about those two  
19 years. And, in fact, the choice of appointing a commission to look at salaries is one that  
20 the Council may or may not have in the -- may not exercise in the future. And so the  
21 question is not just for the third and fourth year of the next Council but for future  
22 Councils. And you're not recommending...

23  
24 Mark Aron,  
25 No, we do not make any recommendations, Ms. Praisner, on that. We will leave that up  
26 to the next Committee to make that...

27  
28 Councilmember Praisner,  
29 But there may not be a next Committee and that's the concern that I have. If that's the  
30 case, then you would have a flat amount with no increase after you have two CPIs,  
31 you'd have no adjustment. So I wanted to make sure that you were clear about that  
32 issue or that we were, because you recommend not using the CPI for the first two years  
33 of the next term. And then you recommend going to the full CPI but you don't say  
34 anything about years after that. And that was my question. Second question is I know  
35 you had conversations about the issue of full-time versus part-time Councilmembers.  
36 You acknowledge in your documents that every Councilmember works much more than  
37 the 40 hours that might be assumed with a full-time position. I wondered if you took any  
38 position on the issue of the assumption of or anything to either share with the Charter  
39 Review Commission or others on the issue of full-time, part-time?

40  
41 Mark Aron,

December 6, 2006



1 We based our recommendations on the existing situation today although as you said it  
2 was very, very clear from our conversations with you and other members of the Council  
3 and others that it is de facto a full-time position and that's the way we looked at it.

4  
5 Unidentified,  
6 Individuals may have testified though to the Charter Review Commission on this.

7  
8 Councilmember Praisner,  
9 Okay, thank you. I just noted that I'm not sure that your recommendations say anything  
10 about the other positions as well for after the four years. So to the extent you're not  
11 saying anything, it may be something that we on the Council will have to look at. Thank  
12 you.

13  
14 Council President Leventhal,  
15 Okay, there are no further comments or questions. But great interest in the result of  
16 your work and much gratitude. Thank you very much. And that -- yeah, we need a  
17 motion for a closed session.

18  
19 Councilmember Floreen,  
20 So moved.

21  
22 Councilmember Praisner,  
23 Second.

24  
25 Council President Leventhal,  
26 Okay, we need to actually read the motion, Nancy, if you would please. It's Agenda Item  
27 Number 34.

28  
29 Councilmember Floreen,  
30 Yes, I move that we go into closed session for the purposes of consulting with staff and  
31 counsel to obtain legal advice regarding pending or potential litigation pursuant to  
32 Maryland Code, Government Article 10508A-7 and 8. Topic is [Hamden Lane], LLC.

33  
34 Council President Leventhal,  
35 Motion has been made and seconded, those in favor will signify by raising their hands. It  
36 is unanimous among those present. We will adjourn immediately to the sixth floor  
37 conference room.